✓ P 113

App. F. IX-4

*Previous References*

1928. (Mezrai)

**File No.** 178-29

**Serial Nos.** 1-11

*Later References*

Mez 335-33-(1-12)
Mez 144-35-(1-2). Mez 198-35-1-6
Mez 3-2-1-(1-4)
Mez 19-3-36-(1-4)

# General and Revenue Secretariat.

Mez 251-40
Mez 375-41-1-2

*Serial Nos.* 11.

**Part B for** April 33.

**SUBJECT.**

Appeal re the lease of the inam lands in Konkanahalli Ka...ba belonging to Gopila & Ma in Konkanahalli

L. The Mezrai Commissioner No 142 of 11-4-33

Dismisses the appeal

RS

G. R. S. APP F.111—1] 1929.

GENERAL AND REVENUE SECRETARIAT

( Judicial )

NOTES.

File No.

FILE HEADING.

case of the main lands in Kankanhalli Kasba belonging to Degal Math in Kankanhalli town.

FROM

Gaiya and others.

No. Petition Dated 16 . 12 . 29 Received

| Diary No | Enclos. | Spare copies | Serial No |
|---|---|---|---|
| 968 | 1 | | |

BRIEF ABSTRACT OF LETTER

D. Appeal against the M.C's order so far as it relates to the direction that for reasons stated. The present holders shall pay to the Math a reasonable rent in which case the lands may be continued to them for a period say upto 30 years.

NOTES AND ORDERS.

D The petition is duly stamped. A copy of the M.C's order appealed against, has been produced. The order appealed against is dated 14.9.29, while the appeal petition was received on 16.12.29. It is in time calculating the

NOTES—First Sheet.

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time taken for the preparation of the copy
2 may a report with records, be called for on the subject? submit.

AV
15.12.29

18/12/29

20/12

C 3661-29

19/12

3 A/c, Mysore, Dharwar 21.12.29

4 Action taken

21/12

5 Another appeal petition from Bandi Mallah of Kankanhalli on the same subject, is placed on the file—

6 DR calling for report on both the appeal petitions, is submitted for a.p.pl.

AV
23/12/29.

7

22/12

Note—Contn. Sheet

General and Revenue Secretariat. | File No. 178 of 192?

| Serial No. | |
|---|---|
| 3 | To the ... two no. 31-1-29. |
| 4 | Letter No. 949/29-30 dated 19.3. From the Muz: Comm^r. Forwards the report with entire records. Encloses with a letter from the Dy: Collr in the matter of fixing quit rent for each survey No: & Two appeal petitions are received — (i) from the tenants holding the inam lands endowed to the Degula Chick Matha & Dodda Matha in the Kankanahalli taluk. (ii) from Bandi Mallaiya one of the tenants of the Muz: land |

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

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Serial No.

9 In the former petition it is prayed that that portion of the order of the Mug: Comm which directs that the lands may be continued to them for a fairly long period, say 30 years' may be modified.

10 In the latter petition, the Cancellation of the M'C's order and the restoration of the DC's order are prayed for for reasons stated.

11 The facts as gathered from the records are as below: —

The Desika Mutt at Kankanahalli is a Muzrai institution richly endowed with Devadaya Inam lands for its upkeep.

Sri Nirvana Swamy, the Guru of the Mutt (now the Respondent) appealed to the Mug: Comm against

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

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the order passed by the Dt. Bay in the matter restraining the tenants of the mutt lands from tearing out the Co-coanut trees in their lands for tapping toddy.

12 The Dt. had allowed tapping of trees on the ground that as the tenants were in possession of the lands for over 12 years, their right to the trees & the benefit to be derived therefrom should not be denied and observed that if the mutt stands to lose by this action of the tenants, it was open to the mutt to obtain Compensation from the tenants.

His order is flagged. R.

13 The enquiry Conducted by the S. D. Inspector and District office note thereon and the statement attached thereto show that the alienations (major part) have been

NOTE—Contn. sheet.

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subsequent to 1850 and that no steps were taken to limit the lease to short terms as directed in the G.O: 1415-6/ dt 12.4.07. (vide also G.O: 2026/ dt 29.5.04

14 In July 1920, the Dc's report that the Swami himself was not willing to disturb the present tenants was recorded by Govt: in G.O: No: 254/ Mucz. 146-13-4 dt 20.4.20:

15 The Mucz: Commr passed in appeal a comprehensive order — against the Dc's order — and remanded the case to the Dc. with certain directions and observations

Reg. Q.

16 The present appellants (Respondents in appeal before Mucz: Commr) pray for the modification of that portion of the order which affects



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the term of the lease of lands. and Bamoi Mallah prays that the D.C's order be upheld.

17 The D.C. Bangalore in his letter to the Mng. Comm. recommends that in the interest of the institution the period of the lease of lands may be limited to 10 years subject to revision at the option of Govt: instead of 30 years.

18 Subd for orders. with all relevant records regd. The Case will, if approved be posted for hearing on a date to be fixed by the Members. (Extracts from the Inam Register is regd)

19 The Dy Comr's views seem to be acceptable.

Prs)

20 A For orders

In 1st instance 21/4/30

Mng 24/4/30

24/4

× Enc: to P u 8

A

29 APR. 1930 No 6575

6

13/6/29

24/4

Note—Contn Sheet

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146

22. This case was heard on 7th July 1930.

23. Mr. Lakshmana Gowda, the Lawyer for some of the Appellants represented that an attempt would be made to settle the matter by compromise. Mr. Nageswara Iyer, the Lawyer for Bandi Mallaiya, joined Mr. Lakshmana Gowda in this representation. I made it clear to them that the claim to permanent tenancy could, under no circumstances, be conceded and that the conditions of the lease of the lands should be fair to the Institution. Mr. Vasudevamurthy, the Lawyer for the Respondent, was not very hopeful of an amicable understanding being arrived at between the parties. He, however, added that he would also use his good offices in inducing the parties to come to an amicable understanding. Time for a month is allowed for the purpose.

S. . . (7-8-30)
Insu
9-7-30

7.8.

Petition dated 5.8.30 from Mr. B. Vasudevamurthy, Advocate for Sree. Srivaishnava Swamiji Vegala Mutt that the appeal has not been settled out of Court nor was it possible for any terms of Settlement to be arrived at between the parties for being placed before Govt: etc

Note—Contn. Sheet

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General and Revenue Secretariat

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24 First Member's orders on the petition.

Mus. The other party may be asked if no compromise is possible as promised at the time of hearing. If not the case may be put up for disposal.

(Sd) M. A. K.
5. 8. 30.

25. Subd with 2 Drafts. for kind approval
6 8 30. MSK A month's time was allowed for the settlement of the dispute by compromise on 7-7-30.

25(a) Issue
IC
7. 8.

To Mr C. Lakshmana Gowda. Advocate.
No: 297 dated 7. 8. 30. enquiring if no Compromise is possible as promised at the time of hearing

To Mr. A.R. Raghavendra Iyer.
Advocate
No: 298 dated 7. 8. 30. enquiring as above.

Gms.
to be put up on 12 8 30
MSK
7.8.30

Letter dated 12/8/30 from Mr. C. L. Gowda. Advocate. Stating that he has already secured the Consent of all the parties to meet and make a final



WD 01684—GPB—30,000—20-4-29

Mug Appl 2707 29-30

App. F. III—2]

General and Revenue Secretariat

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to reach an equitable Settlement. requests that the reposting of the case may be put off by about a month more

26. Of the 12 appellants, eleven people are represented by Mr. C. L. Gowda and Bandi Mallayya alone is represented by Mr. A. R. Nageswara Iyer. Reply from the latter is due.

29. Mr Lakshmana Gowda requests that the reposting may be put off for a month more. Subs for land orders with reference to Member's orders in para 24 of the Notes.

H. Lee 13/8.

13.8.

1st Member 15/8

28/8

Letter no: nil dated 15.8.30.

From Mr A.R. Nageswara Iyer.

Writes to say that no Compromise has been effected so far.

29. For land perusal.

H Lee 18/8.

30. Magistrate reported 19.8.30

31(a)/30

9/9. 1st Member

2070 18/8

2275 18/8.

15 AUG 1930 1120

OFFICE OF THE FIRST MEMBER OF COUNCIL 8 SEPT. 1930 No. 1537

3030 10.9

Note—Contps Sheet for Nov. 1930

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Mus Appl (2) of 29-30.

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31 The case was posted for 1/11/30. Mr. C. Lakshmanna Gowda acknowledged the receipt of the notice. Messrs Rajeswara Iyer & B. Vasudeva Moorthy wrote on 30th & 31st ult respectively requesting an adjournment

32 The Case was called at 3 P.M. precisely - Mr B. Vasudeva Moorthy was present. As Mr C. L. Gowda had not come till after the case was adjourned. The Case was not heard

33 Orders: The matter ~~on the application~~ - Adjourn to another date intimate to parties."

34 For orders as to the next date of hearing. If approved the A Note will be sent to the P.A. to 3/11. First Member for obs orders

35) [signature] 4.11.30

OFFICE OF THE FIRST MEMBER BOARD OF REVENUE 4 NOV. 1930 No. 6523

36) P.A. to I Mem: Kindly compliments for kindly noting the date on which the case may be posted.

Asst 4.11.30.

37) May be posted for hearing at 3 P.M. on Saturday the 15th inst.

[signature] 6/11/30

Supdt. Mus. branch, with compliments

38) Parties present as before. Mr stated that no compromise was possible. I am not sure if the previous ~~enquiry~~ was a final enquiry as laid down in S 37 ~~but~~ the ~~enquiry~~ ascertainment by regular ~~enquiry~~ if it was not a final ~~enquiry~~ may be advised to be held appropriately

Mr C.S. for issue of notices to Advocates

Note—Contn Sheet

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35 Dept. Sub
17/11 Please put up a typed draft.
18.11.30

41) Typed draft put up
18/11/30 Law Secy)
42) 19.11.30

43) Secy
P. 20/11
24.11.30

5 No 1187 G 26/11/30 to the Deputy Commissioner Bangalore Dt. intimating him to file a formal enquiry in the matter and calling for a report—

No 1188 G 26/11/30 to the Mysore Commissioner forwarding Copy of the above letter & requesting that the report may be got as quickly as possible & forwarded.

S & G 26/11

6 Letter No. C840/30-31 G 13/5/32 from the Mysore Commissioner submitting the report received from the Deputy Commissioner Bangalore Dt. regarding the alienation of Devadaya Inam lands endowed for Bhagavatha Mutt

Note—Contn. Sheet

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General and Revenue Secretariat — File No. [illegible] of 193[illegible]

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Kandhalli Jaidad.

The report is with D.C. & the minutes in Para 38 supra.

GS 4/1

The Deputy Commissioner reports a copy of which is enclosed with M.E.'s letter B 73/87/32 (PWD) gives a clear and detailed history of these Devadaya lands and their alienation. The D.C. suggests what course, in his opinion, would be equitable to both the trust & the lessees.

For Secy)

7/6/32

1st number [illegible] 13/4/32

It is necessary that way be found in regard to these lands [illegible] Inam Settlement. [illegible] obtained those [illegible] Inam Settlement — Registration of these lands. The D.C. has suggested what he considers would be a fair solution of this difficult case. Where there is unauthorised alienation or enjoyment, the position has to be viewed fairly & briefly and a settlement arrived at which will keep in view the object of the grant and which will be fair to the other interests concerned

Secy

(4/5/32

[illegible]

8321

8918 / 8/6

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

Inward File No. 178 of 1932. | General and Revenue Secretariat

Mr. C. has sent his office records called for. Asks Calling Articles, also asks for the Survey Instructions Manuals for credits

Gen Dept
Credits

Rec'd 25/6/32

No 8 of 2.7.32 from Mysore Commissioner Calling for his office file on the subject stated therein.

No 99 2.7.32 to the Superintendent Revenue Survey and Settlement Calling for copies of Inam Settlement Registers of lands endowed to Sri Deeptha Mitte

Letter No. 870 of 30/31 9.7.32 from the Asst Comm & Forwards the records called for in the above

Reply for the Supdt Rev Survey will be awaited.

Rec'd 12/7/32

Yes - Send a Reminder if not rec'd by the 15th

12/7/32

Letter No 17/32-33 of 13.7.32 from the Superintendent Revenue Survey of and Settlements in Mysore forwarding Copies of Inam Registers pertaining to the grant of lands to Deeptha Mitte at Bankapur.

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D. Kind ref.ce is invited to G.O no 1415-6/mwz dy 12.9.07 a copy of which is found in the records received from the D.C. He obtains the main Three casted Trees are clearly from the order. As the Mahadhikari had maintained no accounts, orders were issued among other matters for the proper maintenance of regular accounts & for the efficient management of these affairs. Later on in 1909 the D.C. Bangalore reported that the lessees had failed to plant trees in certain Inam lands & that therefore he intended to take back the said lands from the lessees. & lease the same for short periods - This was appd in G.O no 2026/mwz 7.156-07-8 dy 29.5.-09. Later on on an enquiry from here, the D.C. Bangalore in his letter of 20/5/20 reported that there are no temples or Chatrams under the Superviscn of the Mahadhikari himself who was not willing to dispense with almost all the tenants & that there seemed to be no necessity to interfere with the Inam Lands. This report was accordingly recorded.

Mwz 146-13-3

5) The D.C. in para 6 of his report dy 4.5.32 says that large sums of money must have been spent by the lessees to bring the lands to the fruitful condition besides giving them on Inam basis. The Confirmation of the

NOTE—Contn. Sheet.

that there is any question of alienation and the cases have to be treated as those of tenants at will and not as those of Kadim tenants under Section 84 of the Land Revenue Code.

(2) It is urged that in some of these cases there were alienations prior to 31st January 1853. If these alienations were of a nature to limit the right of the Mutt, the alienees should have advanced their claims at the time of the Inam Settlement. There is, however, no reference to any such claims or orders on them in the copies of the connected Settlement Registers, obtained from the Inam Office. It is clear from these Registers that the lands under consideration have been confirmed as Devadaya Grants in every respect and the interests of no parties other than the Mutt are recognised. This fact, I think, shows that the contention that ~~some of~~ these lands were alienated ~~before 1853,~~ is untenable. Even if there are genuine documents establishing ~~such~~ alienation, they should have been produced at the time of the Inam Settlement in 1877 and I don't think it is open to the appellants to set up at this distance of time a claim inconsistent with the Inam Settlement of these lands.

(3) In regard to cases of alienation subsequent to 1853, the position is clearer still. Even if the cases are proved to be those of alienation, they have to be dealt with under Rule II (b) of Notification dated 17th November 1877 and the lands should be summarily resumed. As stated above, the cases appear to be not those

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those of alienations at all but only of leases of lands on payment of fluctuating annual guttas.

(4) In para 8 of his letter dated 17th April/ 4th May 1932 to the Muzrai Commissioner, the Deputy Commissioner has referred to the question of adverse possession and to the divergence of provisions on this subject in regard to lands of temples and mutts. It will be seen by reference to the Regulation of 1913 that the Proviso to Section 14 thereof applied only to the lands of Institutions dealt with in Chapter II and not to those of Mutts dealt with in Chapter III as clearly stated in Section 24. The right accruing by adverse possession under the Proviso to Section 14 of Regulation VI of 1913 did not apply to the Devadaya lands of Mutts even when the said Proviso was in force. The question of adverse possession does not also appear to arise in this connection as in view of the ~~lease~~ lease arrangement between the Mutt and the appellants the latter can only be treated as tenants at will.

(5) If what is stated above is the correct legal position between the Mutt and the appellants, the opinion of the Law Department may be obtained on the points mentioned ~~above.~~ The petitioners have no claim to keep the lands as a permanent measure and the disposal of the cases coming under the first two categories mentioned in para 11 of the Deputy Commissioner's letter referred to above, in the manner suggested by him, is not the proper solution

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

20)

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solution of these cases.

60) It is stated that the appellants have incurred considerable expenditure in converting dry into garden lands and that it would not be fair to deprive them of the lands altogether. Some consideration is, no doubt, due to them for improving the income-yielding character of the lands but it should not be overlooked that they have, from what the Deputy Commissioner has reported, kept almost the whole benefit for themselves and that for very long periods. The most equitable disposal of the case is that of allowing the appellants long leases of these lands on gutta amounts which can be considered fair in view of all the ~~considerations~~ factors to be taken into account and this is what the Muzrai Commissioner has directed in his order dated 14th September 1929. In this view, the appeal has to be dismissed.

125 Govt

61) After the disposal of the pending appeal, it is, I think, necessary to consider whether Devadaya Grants of this ~~xxx~~ nature can be continued at all in view of altered conditions. It would appear from ~~the Gutta of~~ the Inam Register that the grant is intended for "showing hospitality to travellers". If this is the only object of the grant, the institution is really a chattram and not a Mutt, and as grants to chattrams have been abolished, the necessity to continue similar grants to so called Mutts requires examination.

Mug 27/9/32.

62) Asst Secy, Law Sec^n with Compliments for favour of perusal. MSK 27/9/32 AS MSK 27/9/32

2723/33

(21)

neral and Revenue Secretariat

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R.O. No P 19631 dt 14.11.32

Forwarded with Compliments to the Govt Advocate for favour of opinion.

B.O.

for General Secretary

TSD 12/11

GOVT. ADVOCATE JEFFLOR -BANGALORE

No. 1077

Rev. Dept. G.O. No. 631/32-2 dt 2-12-32

17/12

63 Returned with compliments

Sir I have been appearing for one of the appellants before Court I feel it delicate to express any opinion in the matter.

S. Muthanna Iyer

3/12/32.

GENERAL SECRETARY'S Office 3 DEC 1932 No. Law

NOTE—Contn. Sheet

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64 The rights of appellants are admittedly leases. But they contend that they are perpetual leases granted by the previous Swamis.

65 The principles of law governing the nature and extent of the rights of a Mahanthipathi over the properties of a Mutt have been laid down in a number of Privy Council decisions, & they are as follows—

66 1. These men ( Heads of religious institutions, had and have ample discretion in the application of the funds of the institution, but always subject to certain obligations and duties, equally governed by custom and usage. Called by whatever name, he is only the manager and custodian of the idol or the institution. In almost every case he is given the right to a part of the usufruct, the mode of enjoyment and the amount of the usufruct depending again on usage and custom. In no case was the property conveyed to or vested in him, nor is he "trustee" in the English sense of the term, although in view of the obligations and duties ~~vested~~ resting on him, he is answerable as a trustee, in the general sense, for maladministration. (44 Madras, 831 at 840, P.C.)

67) 2. If any specific property is specifically entrusted to the head for specific purposes he might be regarded a "trustee" with regard to that property; but in the absence of any such evidence the superior is not a trustee in respect of any part of the endowment. .... An alienation by a

NOTE—Contn Sheet

a manager or superior, by whatever name called, cannot be treated as the act of a 'trustee' to whom ~~property~~ property has been 'conveyed in trust" and who by virtue thereof has the capacity vested in him which is possessed by a "trustee" in the English law. (33 Madras, 265 and 44 Madras, 831).

67. 3. The power of a Mahant/as the head of a Mutt to alienate the property of the institution is, like the power of the manager for an infant heir, limited to cases of unavoidable necessity. (2 I.A., 145 and 33 Calcutta, 1003 P.C).

4. Except for unavoidable necessity, the head of a Mutt cannot create any interest in the mutt property to enure beyond his life. (44 Madras 831, P.C)

5. It is a breach of duty on the part of the head of a mutt, unless constrained thereto by unavoidable necessity, to grant a lease in perpetuity of the mutt lands at a fixed rent, however adequate that rent may be at the time of granting, by reason of the fact that by this means the mutt estate is deprived of the chance it would have, if the rent were variable, of deriving benefit from the enhancement in value in the future of the lands leased. (15 I.A. 270 and 40 Madras, 709 P.C.).

71 6. A lease granted by the head of a mutt is valid for his life, and if adopted by his successor will enure during his term of office; but neither the original alienation nor the subsequent adoption would create a bar by adverse possession. (38 Madras 350).

72 The leading case in the subject is the Privy Council case of Vidya Varuthi vs Balusami Ayyar (44

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44 Madras 631). The facts in that case were almost similar to those in the case under consideration. It is interesting that the proceedings in that case were initiated by the Mysore Government as managers of the Sri Vyasaraya Mutt in respect of the property belonging to that Mutt in Madura. In that case, the previous Swami had given away certain mutt lands on a permanent lease. The contentions raised by the lessees were that the permanent lease under which they claim was created under circumstances that would bind not only the grantor but all his successors; and secondly, that even if the lease was not valid they had acquired a title under the Indian Limitation Act by adverse possession for over twelve years from the date of the grant. All the courts found against the first contention and held that there was no necessity.

73) The question of limitation consisted of two parts. (1) One contention was that the article 134 of the Limitation Act, which prescribes a period of 12 years from the date of transfer by trustee in respect of property conveyed or bequeathed in trust, applied. It was held by the Privy Council that the properties were not conveyed in trust to the head of the Mutt for specific purpose, that there was no sense of trusteeship and that consequently article 134 did not apply.

74) (2) The second contention was that the

NOTE—Contn Sheet.

lessees acquired title by adverse possession for over 12 years, under article 144. The Privy Council observed as follows in regard to this contention (at page 355):-

"In view of the argument it is necessary to discover when, according to the plaintiff, his adverse possession began. He was let into possession by Mahant no. 1 under a lease which purported to be a permanent lease, but which under the law could enure only for the grantor's life-time. According to the well settled law of India (apart from the question of necessity, which does not here arise) a Mahant is incompetent to create any interest in respect of the Mutt property to enure beyond his life. With regard to Mahant no. 2, he was vested with a power similarly limited. He permitted the plaintiff to continue in possession and received the rent during his life. Such receipt was with the knowledge which must be imputed to him that the tenancy created by his predecessor ended with his predecessor's life, and can, therefore, only be properly referable to a new tenancy created by himself. It was within his power to continue such tenancy during his life, and in these circumstances the proper inference is that it was so continued, and consequently the possession never became adverse until his death'.

In the present case, even if it be conceded that the previous Swamis granted permanent leases to the appellants, the grant could have enured only during the life-time of the grantor. It may be inferred that the leases were adopted by the subsequent

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subsequent Swamis since they did not raise any objection and that the tenancies were continued during their lifetime. The tenancies could never become adverse. The present Swami has objected and is entitled to do so. There is no question of adverse possession against him and article 144 does not apply. There is no evidence, and it is not the case of the appellants either, that the properties were conveyed or bequeathed in trust to the Swami for a specific purpose, and consequently article 144 will not apply.

77) It is admitted that the transfers relied on are leases. If they are leases, there can be no question of the possession of the tenants being adverse to the landlord. Adverse possession implies that it commences in a wrong and is maintained against a right. When possession is lawfully obtained or is permissive, it cannot be contended that the possession is held adversely to the landlord.

78) Possession for a long period of time, payment of invariable rent, transfers effected by the tenants, may all be evidence to be taken into consideration to determine whether or not there was a permanent tenancy. But they would not constitute the possession being adverse to the landlord.

79) On the facts also, the appellants' case does not appear to be strong. They rely upon leases granted by the Swamis. Where the origin of an alleged permanent

NOTE—Contn Sheet.

permanent tenancy is admitted & no presumption of law by a mere length of time will arise. The tenants will have to prove the tenancy alleged ( 20 Mysore Chief Court Reports, 120). The mere fact of possession on a uniform rent for a number of years is not sufficient proof of permanent tenancy (4 Mysore Chief Court Reports,25).

There is no proof in this case of payment of rent at a uniform rate either. According to the Deputy Commissioner's report, they were paying "Rajapal" which seems to be merely gutta. The appellants also concede that the lands may be continued to them on the basis of their paying reasonable rent to the mutt, which is an admission against the theory of the rent being invariable. There is also the fact that these claims of permanent leases were not advanced at the time of the Inam settlement. ?? There is a further restriction placed on the alienations of Inam lands granted to mutts, by section 30 of the Mysore Religious and Charitable Institutions Regulation, 1927. According to this alienation of inam lands by a mathadhipathi without the previous sanction of the Government is null and void and the Muzrai Commissioner may resume such lands and restore them to the mutts concerned.

?? Thus, even in cases where under the ordinary law, as stated above, an alienation of mutt property may be recognised, (for example, if it is for unavoidable necessity or if it had been conveyed to the head of the mutt for a specific purpose and article 134 of the Limitation Act applied,) section 30 of this regulation would disallow the alienations if the property is an Inam granted by the Government. According to the proviso to section 30,

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alienations made prior to 31st January 1883 shall be dealt with in accordance with the Inam rules contained in the Chief Commissioner's notification of 17th February 1887. This must have reference to an alienation which is recognisable under the ordinary law, as stated above, and under which a title has been acquired by the alienee. According to the alleged law as stated above, the permanent leases granted prior to 31st January 1853 have no existence now. The leases expired with the last swami who chose to continue them. They can continue as a new tenancy created by the present Swami if he chose to adopt them. But since he repudiates them, they are not binding on him. In these circumstances, the proviso to section 30 would not apply to the alleged permanent lease.

8. The difference between sections 10 and 30 of the Regulation is explicable. Under section 30 adverse possession for over 12 years is not recognised as giving a right to the transferee in view of the special incidents of law ( as stated above ) attached to the status and rights of matadhipathis. Each successive matadhipathi can question the alienation made by any of his predecessors unless it was for unavoidable necessity.

9. The contention of the appellants that they have made improvements to the lands, has no legal force. The lessee is not entitled to any compensation for improvements unless they have been made with his consent.

NOTE—Contn Sheet

WD 02553—G PB—50 000—8 7 30

8th Financial Secretary

9th Retd. 28/4/30

Mercy File No. 178 of 1932

General and Revenue Secretariat

Please see para 6(a) supra. The appeal has to be dismissed. orders accordingly may be issued

11/3/33

13/3/33

Issued as directed

15/3

Please speak to me

15/3

Revised Dft. issued —

Dft for approval

16/3/33

17/3

17/3

5/4/33

5/4/33

OFFICE 17 MAR 1933 6066.

No 1429 dy 11.4.33 to the Mazrai Commissioner forwarding the decision given in the appeal case.

Memo No 1431 dy 11/4/33 to Mr C. Lakshmanaraj 2nd Advocate for the appellants with a copy the decision since given.

(3d

General and Revenue Secretariat — File No. 178 of 1929 — [App. F. III—2

Serial No

9/cm. no 1430 d 11.4.33 to Mr A. R. Nageswara Iyer Advocate for the appellant forwarding copy of the decision given in the appeal case.

No 1432 d 11/4/33 to Mr A. Vasudeva Moorty Advocate for the respondent forwarding copy of the decision in the case.

Submitted with respectfully for orders.

Supra :—

A copy of G.O no 875-90/Misc dt 23-10 d 13/11/26 and proceedings re: abolition of annachattrams in the service + copy of G.O no 624 d 1/Misc 1933-1 c d d 31 effecting economy in respect of pay and for reducing no Munsif. Draft reply thereon submitted for orders.—

(1) Dft calling for a report in the light of observations in para 2 of the letter read —

G.S. 20/4/33 — 95 Put up clean draft please

25/4/33

99 Put up draft G.S. 20/4/33

(2) Submitted for perusal & approval.

27/4/33

II Member)

101) Jor 27/4

(1) 25/4

Secretariat 27 APR 1933 No. 1132.

NOTE—Contn. Sheet

WD 0246 —GPB—15,000—22-8-32

Maz File No. 178 of 1929 | General and Revenue Secretariat

No 1532 dt 2/5/1933 to the Muzrai Commissioner calling for a detailed report as to the need for continuing the Inam lands to Institutions, by the Legislature.

Letter no 1270/32-33 dt 28.10.33 from the Muzrai Commissioner stating that inam lands in the Kankanhalli Taluk were granted for the support of Sri Dogila Mutt, that showing hospitality to travellers was not a condition precedent to the grant and it was not for the specific and single purpose of feeding travellers that the Inam was granted and that in these circumstances the further consideration of the question may be dropped.

Serial No.

Hag A -
x Page 20 of enclosures /

Hag - 0.

The report in the Rud's
(which was referred to in minutes in para 1
supra.

As seen from the Collector of Broach's Regt placed in the file, there are two mills, viz Rog^la Mills and Sir Gavi Mills to both of which Inam lands have been endowed. The report is silent in regard to the Conditions in which the two mills are mentioned. The functions that are conducted daily in them & how far they continuance deserve the Inam lands endowed. Hence, the M.C. may be requested to submit a detailed report - for orders -

Ref:— Para 6 of Sp.
In the circs explained by the M.C. the matter may perhaps be dropped.

25/11/33

Jesang)
2nd Mrj

25-11-33

Asst. Secy to Govt of Bombay

Please put up
in 10 days time for
Govt's orders.
4/12

14/12

11/12

In necessary
& thanks
Sd
D -
file was packed
to Surat with the
letter dt 14/11/33
which file & letter
was received back
on 20/11/33
Sd

Office of the
Secretary to Government
30 NOV
No. 3211

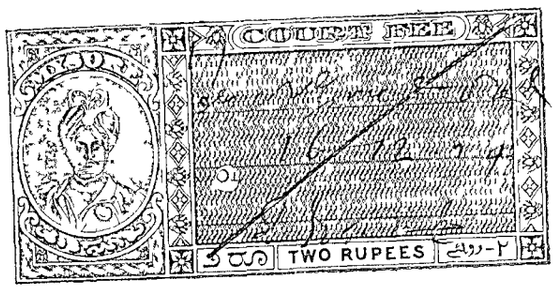
NOTE—Contn. Sheet.

B

WD 70—GBPM—60,000—13-8-31

File No. of 193 .

General and Revenue Secretariat




33

Before the Govt. of H.H. The Maharaja of Mysore.

Muz. Ap. of 1929-30.

Applts.- 1. Eraiya, s/o Kalasa Setty, 2d respt., holder of S. No. 250,

2. Honge Gouda, s/o Kempa Kala, 4th respt., holder of S. No. 277.

3. Mallay Gouda, s/o Lallay Gouda, 5th respt., holder of S. No. 250,

4. Govindaraju alias Appaji, s/o Thimmaraju, 7th respt., holder of S. No. 253,

5. Kone Gouda, s/o Mudday Gouda, 8th respt

6. M. S. Mallari Rao, s/o Subbanna, of S. No. 278,

7. Venkatanaranappa, s/o Rangaiya,

8. A. Venkatappa, s/o Sivanujay Subbaiya,

9. K. Venkataramaiya, s/o Puttaramanna, applts. 7 to 9, holders of S. No. 246, 248, 249, 259 and 260,

10. Venkataramana Gouda, s/o Chikthimma Gouda holder of S. No. 237,

11. Chikmari Gouda, s/o Nanjay Gouda, ~~tenant~~ holder of S. No. 26.

vs.

Respt.- Sri Nirvana Swamy, Guru of Sri Degala Mutt, Kankanhalli.

Re inam lands survey numbers, 237, 246, 248, 249, 250. 253, 259, 260, 261, and 277, of Kankanhalli Kasaba, belonging to Sri Degal Mutt, alienated by the swamies of the Mutt to the applts.

The applts. above-named beg to state as follows:-

1. The names of all the parties interested in the lands in question are not entered as respdts. in the order under appeal, though most of them are embodied in the list made up by the Muzrai Commissioner as

(P.T.O.)

referred to in the order under appeal.

2. The 7th applt., Venkatanaranappa is the undivided nephew of Kabbale Krishnappa whose name is entered in the said list and comes forward as applt. as the said K. Krishnappa is 82 years old and infirm. 8th applt. A. Venkatappa represents his undivided father Sivapujay Subbaiya who is also old and infirm. 9th applt. K. Venkataramaiya is a co-sharer with the said Subbaiya. 10th applt. is holder of S. No. 237 by successive transfers.

The applts. above-named beg to appeal against the order of the Muzrai Commissioner in Muzrai Appeal No. 6 of 1928-29, in so far as it directs that the lands in question may be continued to the applts. only for a "fairly long period, instead of in perpetuity, for the following reasons:-

1. The order of the Muzrai Commissioner in taking away the permanent rights in respect of the lands which the applts. have been enjoying by virtue of leases granted in perpetuity by alienations effected by the swamies of the Mutt and seeking to substitute long leases instead, is unjust, and ignores the following considerations:-

(i) The fact that the applts., relying on the permanancy of the leases granted to them by the swamies of the Mutt in their respective favour, have improved the lands at great cost and labour and converted them from mere sand into valuable cocoanut gardens.

(ii) The fact that every one of the alienations, with consideration, taking the then useless state of the lands is on terms beneficial to the Mutt, as set out in the several grants themselves.

2. The Muzrai Commissioner has lost sight of all-important fact that, whether the alienation was before or after 1853, seeing that the question of dispossession arose in 1919 and not in 1867 when the inam settlement was commenced, every one of the applts. has had 60

years and more, adverse of possession of the particular right claimed by them, a period which is sufficient to extinguish the right of the Govt. [illegible] - let alone that of the Mutt - vide art. 149 and S. 28 of the Limitation Regulation. (The title of 10th applt. commenced in 1848 and that of applts. 7 to 9 commenced in 1806 and 1838 as shown by the 2 documents filed herewith.)

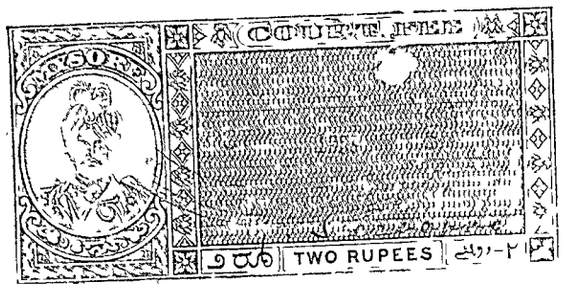
3. The applts. therefore most humbly pray that the Govt. will be graciously pleased to call for the records of the case and to modify that portion of the order of the Muzrai Commissioner which directs that "the lands may be continued to them for a fairly long period say 30 years" so that the lands may be continued in perpetuity to the applts. on the basis of their paying reasonable rent to the Mutt, the permanancy of enjoyment beeing taken as a factor in determining the reasonable rent to be fixed.

4. Applts. No. 7 to further 9 pray that, for the reasons stated in the annexed affidavit, the annexed 2 documents d. 1806 and 1838 relating to S. Nos. 237, 246, 248 and 249 may be kindly receivedand admitted.

Chebbrena Gowda

Adv. for applts.

16-12-29.




D. 16-4-29

36

In the Court of the Mundrai Commissioner
in Mysore

Appeal no 6 of 28-29

Appellant:- Sri Narrania Swamy Guru of Hagala
Chikka and Doddu Halli in
Kankankalli town.

vs

Respondents

(1) Bandi Mahiah Kankankalli
(2) Erappa Sing Kalasanna, Kankankalli
(3) Ramakrishnaiah Sing Kempakalegowda of
Kankankalli
4) Honne Gowda Sing Chikkakalegowda of
Kankankalli
5) Hallegowda Sing Hallegowda of Kankankalli
6) Kulli Venkatramanaiah Presidency of Sub, Kan-
Kankalli
7) Govindarajulu alias Appajappa patel Kan
Kankalli
8) Konegowda Sing Mudlegowda Venkatasawa
Kasaba Hobli, Kankankalli Taluk
9) Anke Gowda elder brother of No 8
10) Kanchegowda of Gandhinagarahalli Channa
patna Taluk
11) Ramaraya Jodidar Kankankalli

Subject:- Appeal against the order of the Deputy
Bangalore District Collector of Mysharing Tolls.

of the Inam lands from Ceasing rent. to
Covenant trees on the Inam Lands to the
excise contractor for drawing toddy

Facts of the case:- The Sri Deputa Inam
at Kankanhalli is a Muthai Institution
endowed with the hereditarily rented Inam lands.
Some of these had been leased out
by the previous Swamis of the Math
for planting Covenant trees
and giving a share of the produce.
The duty to be on these lands which
Land-assumed to alienation
of the properties was enquired
into by the Amildar and a detailed
report submitted in Sept. 1925.
The Sub Dy Asst. sent up the
records to the Dy. proposing
the resumption of the Inam lands
from the possession of the tenants
and their restoration to the Math
for its support. for which the
gift by Govt. was specifically
intended. The Sub Dy Asst. has
thereupon requested to examine
the tenants and also the documents
produced by them in support of their possession.

| Kankanhalli | | | |
|---|---|---|---|
| SN-237 garden | 1-28 | 5- | |
| " 245 " | 2-14 | 8- | |
| " 248 " | 2-18 | 10- | |
| " 249 " | 0-29 | 2-4 | |
| " 247 " | 1-3 | 3-8- | |
| 250 " | 0-36 | 4- | |
| 251 " | 1-24 | 5- | |
| 252 " | 5-0 | 10- | |
| 253 | 2-5 | 6- | |
| 259 | 2-31 | 7-8- | |
| 260 | 2-4 | 3-8- | |
| 261 | 1-13 | 4- | |
| 274 | 2-0 | 6- | |
| 275 | 2-14 | 7- | |
| 276 | 10-26 | 11- | |
| 277 | 2-39 | 9- | |
| 278 | 1-19 | 5- | |
| 334 | 0-26 | 3- | |
| 337 | 1-14 | 5 | |
| 338 dy | 4-27 | 5 | |
| 339 " | 4-28 | 5 | |
| | 45-29 | 119 | |

| Vishnupuram | | | |
|---|---|---|---|
| 2 dy | 4-23 | 5- | |
| 3 dr. | 5-11 | 6-8 | |
| 1 garden | 1-32 | 4-8 | |
| 95 dy | 7-13 | 7- | |
| 109 " | 0-19 | 0- | |
| | 19-8 | 24 | |

and submits a report with his own views. On
pronouncement of this order, the Sub-Dn. then closed
held an elaborate enquiry summoning the parties
and after scrutiny of the documents produced
submitted a report with his in his case 5 dated
26-3-28. On June 1927 the Swamy of the math
26-27
presented an application to the Dy Comrs bringing
to notice that the tenants had not been
[illegible] to the math before they were evicted,
cleared and the coconut trees forcibly
toddy and prayed that this may be prohi-
-bited. A stay order was issued. The excise
contractor and the tenants in their turn also
applied to the Dy Comrs urging their own cause
and praying for the withdrawal of the stay order.
The Dy Comrs after hearing both the parties
allowed the tenants to exercise their right
to give out the trees raised by them for tapping
the toddy in virtue of their being in possession
of the lands for over 12 years, and further
stated that if the math cost thereby, it was
open to it to obtain compensation from the
tenants. The stay order was withdrawn and

the contractor was allowed to tap the trees. The present appeal is against this order. The respondents and the tenants were heard.

order no 87 dis bb of 29-30 dated 14-9-29.

It is a pity that the Dy. Comr's order in appeal does not deal with the important point as to when the alienations of the lands which are admittedly Devadaya Grants took place and whether when the alienations have been made, forfeiture is now obviously a work. matter consideration, We should not interfere on account of the duration of the leases or other mode of alienation by which the tenants has ceased to derive proper benefits from these lands and goes on a side issue as to the right to tap the coconut trees. The subordinate has no doubt held an elaborate inquiry and comes to the conclusion that as the majority of the alienations have been prior to 1853, he cannot interfere, whereas in the case of lands alienated subsequent to 1853 as the parties have spent large sums of money in improving the lands and in raising coconut gardens the lands cannot be restored to the tenants unless he pays reasonable compensation for these improvements. I am attaching herewith a statement giving full particulars of the lands

the mode of alienation and the period for 40
which alienation has subsisted and the nature
of benefit derived by the land as compared
with that derived by the alienees.

(2) Excepting Svs nos 274 and 275 in the possession
of Bandi Mahal, Svs no 277 in the holding of
Hunagowda and Svs no 278 in the possession of
Mallaradhoo the remaining Svs nos have all
been leased out subsequent to 1853. Even with
regard to the other lands referred to, I do not
think that though the mortgages were prior to
1853, we can consider that there was a permanent
alienation so long as the transfer consisted
merely of a mortgage.

(3) It is true that the land authorities
principally the previous Swamy and his pre-
decessor have contributed to the alienation
and do not deserve personally any sympathy;
But by not interfering with the alienations, it is
the institution that suffers.

4 I have inspected the place, both the land
and the lands and the present Swamy is doing
his best to restore the prestige of the land.

5) The lands being on the banks of Arkavati have
been converted into valuable coconut gardens
there would be great hardship in a summary
eviction

of the parties concerned, but the present-holders should pay to the land a reasonable rent; but should once the lands have been entrusted to them for a family long period say even 30 years. It is not possible for me to fix the rent in these individual cases the case will be remanded back to the Officers with a request that ~~except~~ respecting the rent now paid a proper rent should be fixed and in fixing the rent due consideration should be given to the improvements effected by the persons in possession where the present-value of the land is primarily due to the endeavours of the holder the maximum rent need not be levied. The present holders of the lands are fairly influential. Even the present nominal rates of rent have been withheld This attitude should not be encouraged. They should be threatened with eviction if they do not come to the reasonable settlement.

At the same time it is not expedient to allow the Swamy to get the entire benefit due to the exercise of the extra-ordinary powers given under the Madras Regulation to deal with the cases of alienation and utilize the amount for his personal use. He should be told that these extra-ordinary powers will be enforced —

only if he is agreeable to have proper scale of expenditure fixed for the institutions and to maintain proper accounts. In case he does not submit to these conditions he should deal with these cases as unauthorised alienation of Devadaya grants and as the object for which grants have been made has been defeated by the unauthorised acts of the Swamiji concerned the lands should be resumed and enfranchised to the present holders on the principles adopted for the enfranchisement of inams and the amount so realised should be held in deposit for each grant either to this math or other deserving institutions.

The case will be remanded to the Dy Comr for disposal on the above lines, the final settlement of the case should be effected within 2 months and a report made.

Sd) P.G. Dr Souza
Asst Commissioner

Copy applied for 6-10-29
Copy ready 8-10-29
Copy delivered 8-10-29
No of folios 1 3 2 6
Copying fees 1-12-0
Stamp fees 0-7-0
Comparing fees 0-6
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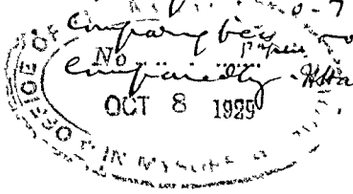



Copy:

R. A. Mayhew
for Asst Comr

Before the Govt. of H.H. The Maharaja of Mysore.

Muz. Ap. of 29-30.

Applts. Rospt.

7. Venkatanaranappa vs. Nirvanaswami of Sri Degal Mutt.

7th applt's affidavit.

I, Venkatanaranappa, s/o Rangaiya, of Kankanhalli, 7th applt. do hereby solemnly affirm and declare as follows:-

1. The annexed documents, viz., (1) sale deed d. 3d Aswayuja Shudda of Prabhava (= 1806) executed by Chindagiri Gouda and Venkatay Gouda to Venkataiya, who was my paternal great grand-father and (2) sale deed d. 13-5-1838 executed by Srinivasaiya to Narasaiya, remained with my cousin Kankanhalli Venkataramaiya, 9th applt., who lives in Jigani and who had no notice of the proceedings before the lower authorities, and thus had no opportunity to produce them earlier. The said Venkataramaiya having had to go away to Jigani on urgent business has asked me to produce them with the appeal.

2. From the boundaries mentioned in these two documents I declare that the first mentioned document refers to S. No. 246, 248, 249, and the second document to S. No. 237.

Solemnly affirmed to before me this 16th day of December 1929.

7-1-31

MYSORE

19 960

Before the Govt. of H.H The
Maharaja of Mysore

Mug. Ap. 27 of 1929-30

Applts — Respt

Eraiya &c — v/s Sri Narvana Swamy.

7th Applts' return application.

The 7th applt. Venkataramanappa, prays for return of the two sale deeds filed along with the memo of appeal in the above case as the same are required to be produced at the formal enquiry to be held by the D.C. on 12-1-1931.

Chikkana Gowda

Adv for applts

7-1-1931

The above may be kindly handed over to my Clerk Mr. M.K.T. Iyengar Chikkana Gowda 7/1/31

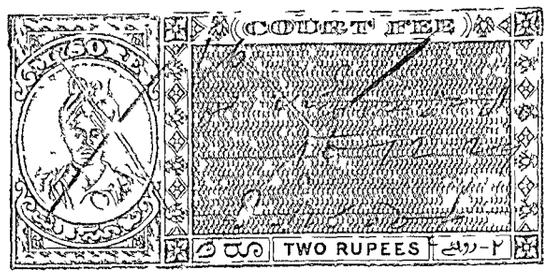
Submitted for orders.

M.K.T. 7/1/31

May be returned

7.1.31

Taken back the two sale deeds forwarded along with the appeal memo dt. 16-12-29. M.K.T. Iyengar, 7/1/31




45

IN THE COURT OF H. Govt. of H.H. the Maharajah of Mysore.

Muz. ~~Apls~~ 1929-30.

Applts.
1 Eraiya & ors
10 others

vs

Respdt
Sri Nirvana Swamy
of Degal Matt

## VAKALATNAMA

executed by the applts. in favour of MR. C. LAKSHMANA GOUDA, B A , B.L., Advocate.

I/We hereby empower the said advocate , in person or by proxy, on my/our behalf, to appear in, and conduct the above case as well as all proceedings arising out of and connected with the same, to compromise the same, and to do all such acts as may be proper and necessary for the due conduct thereof including the signing, and presentation in Court, of the necessary petitions and papers.

And I/we further authorize the said advocate to receive, and give receipts for, any money, document, or other moveable property, that is, or may become, payable or deliverable to me/us in the course of the said case or proceedings.

Malla Rau,
ಲಕ್ಷ್ಮಣಗೌಡ
ಆ. ಸ್ಥ ೦ ೫ ೨ ಕ್ಷ.
10-12-1929. (5th respdt)
(7th respdt.)

(8th ~~applt~~ respdt.)

Left thumb mark of Honge Gowda (6th respdt)

~~I know the executant who has signed before me.~~

I know the executants who have signed before me
Clg

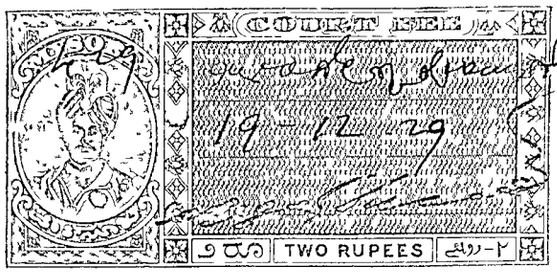
Left thumb mark of Eraiya (1st respdt.)

~~Accepted.~~
Accepted
Lakshmana Gowda
16/12/29

Left thumb mark of Chikkamani Gowda

SPINKER & CO PRINTERS BANGALORE

Rw (Muzrai)
19/12/29




46

19880

Before the Government of His Highness the
Maharaja of Mysore, Bangalore.

Muzrai appeal of 29 - 30. Muz 178-29-2

Bandi Mallayya son of Bandi Chennappa residing at Kankanhalli. .. Appellant.

versus

Sri Nirvanaswami Guru of Degala Chikka and Dodda Mutts in Kankanhalli town. .. Respondent.

Appeal against the order of the Muzrai Commissioner in Mysore in appeal No. 6/28-29 remanding the case to the Deputy Commissioner Bangalore District, for fixing a proper rent.

---

The respondent is the Swami of Degal Chikka and Dodda Mutts situated in Kankanhalli town. The Mutt is a Muzrai institution endowed with inam lands. The lands in question were in possession of tyots who planted cocoanut trees and improved the lands at considerable cost and trouble. The long lease of these lands and subsequent alienations were enquired into by the Amildar, who submitted a detailed report in September 25.

47



2) Subsequently the Sub Division Officer sent up the records to the Deputy Commissioner, proposing the resumpt· of the inam lands from the possession of the tenents and its restoration to the mutt. The Deputy Commissioner sent back the records requesting the sub division officer to examine the tenants, and the title deeds in proof of their long possession and submit a detailed report. After a prolonged enquiry, the sub division officer submitted a report in His. case 5/26-27 dated the 26th March 28, holdi that since most of the alienations were prior to 1853 the rights of the ryots could not be ~~interfered~~ interfered with.

3) In June 28, the respondant filed an appeal before the Deputy Commissioner, who after hearing both the parties dismissed the appeal and allowed the tenants to exercise their rights.

4) The respondent then appealed against this order of the Deputy Commissioner to the Muzrai Commissioner who allowed the claims of the mutt to the lands in dispute and remanded the case to the Deputy Commissioner with the request that irrespective of the rent now paid a proper rent should be levied.

5) The present appellant is in possession of survey Nos. 274 and 275 which even according to the learned Muzrai commissioner had been alienated in favour of his predecessors in title even prior to 1853, and as such the lower court erred in remanding the case to the Deputy Commissioner while it ought to have dismissed the appeal in the light of the findings of the Deputy Commissioner.

The documents clearly prove the alienations from before 1829. The original documents which have been produced will be produced for perusal on the date of hearing. The learned Revenue Commissioner has erred in opining that there was only a lease and nothing more. On the findings of fact the order of the Revenue Commissioner is erroneous.

6) The lower appellate court has failed to appreciate the fact that the trees had been planted by Mallayya and his predecessors in interest, and that Mallayya himself has paid kandayam every year.

7) The lower appellate court erred in holding that though the alienation was prior to 1853, the transfer merely amounted to a mortgage and not a permanent alienation. The court has failed to notice the nature of the documents and has failed to notice that they are in the nature of creating title to the property. Even a long lease is an alienation according to revenue law. The deed of exchange of 1829 ~~is~~ had been filed in court even 50 years back.

8) The ~~kawarxappakkakax~~ appellant is also in possession of the lands for a long period and even with

4)

respect to them the order of the lower court is erroneous. The learned Revenue Commissioner has failed to notice that the mutt has fraudulently started proceedings to defraud the ryots and the mutt is estopped from raising these pleas now.

9) While holding that the inam lands have been converted in valuable cocoanut gardens through the efforts of the tenants, the lower appellate court erred in remanding the case to the Deputy Commissioner for fixing a proper rent.

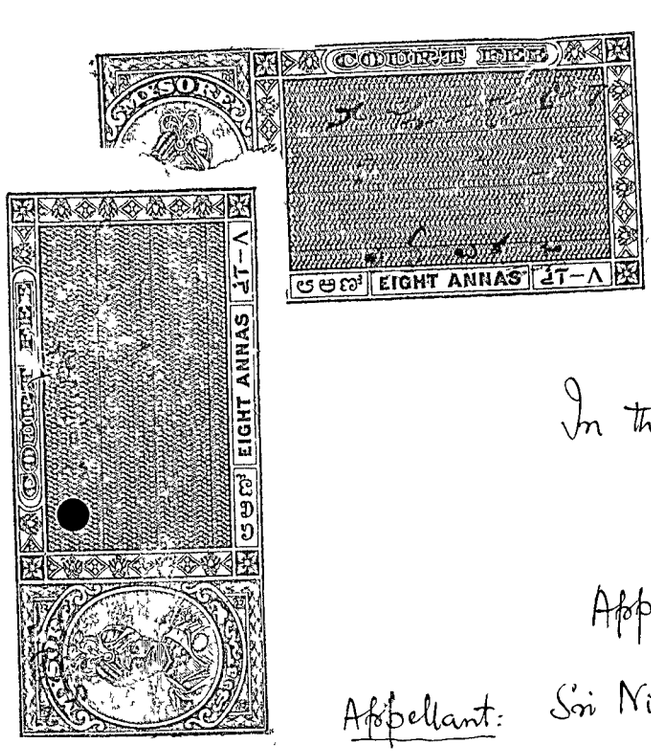
10) The lower appellate court has failed to notice that the mutt had filed suits against Mallayya's predecessors for recovery of kandayam.

11) The lower court has not properly appreciated the facts of the case and the order of the lower court is erroneous and inequitable.

12) The appellant therefore prays that this Honorable court may be pleased to set aside the order of the Revenue Commissioner and restore that of the Deputy Commissioner.

M Narayana Iyer

Bangalore,
19th Dec 29.




56

In the Court of the Muzrai Commissioner
in Mysore

Appeal no 6 of 28.29

Appellant: Sri Nirvanaswami Guru of Degala Chikka and Dodda matts in Kankanhalli Town

Respondents

(1) Bandi Mallayya Kankanhalli
(2) Erappa Son of Kalasanna Kankanhalli
(3) Kempakalayya Son of Kempa Kalasegowda of Kankanhalli
(4) Honge gowda son of Chik Kalegowda of Kankanhalli
(5) Malle gowda Son of Mallegowda of Kankanhalli
(6) Kulli Venkatanamiah residing in Fort Kankanhalli
(7) Govindarajulu alias Appajappa Pelta Kankanhalli
(8) Kone gowda Son of Mudde gowda Veerapasandra Kasbathobli Kankanhalli
(9) Anke Gowda Elder Brother of No 8.
(10) Kenche gowda of Santhe mogenahalli Chennapatna Taluk.
(11) Sambangayya godidar Kankanhalli

Subject

Appeal against the order of the Deputy Commissioner Bangalore District in the matter of restraining the transfer of the Mall

Inam lands from leasing out the Co-Coanut trees on the Inam lands to the Excise - Contractor for drawing toddy

## Facts of the Case

The Sri Degala mutt at Kankanhalli is a Sagara institution endowed with the marginally noted Inam lands

Some of these had been leased out by the previous Swamies of the mutt for planting Co Coanut and giving a Share of the produce the long lease of these lands which amounted to alienation of properties which was enquired into by the Collector and a detailed report submitted in September 1925. The Sub Division-officer dealt with the leases & the Deputy Commissioner finally The resumption of the Inam lands from the Assignees of the tenants resulting in the mutt per ~~the~~ suffering for which the Govt by Government was specifically intended the Sub Division office was

Kankanhalli

| | | | |
|---|---|---|---|
| S No 237 | Garden | 1-28. | 5-0-0. |
| 245 | " | 2-14 | 8-0-0. |
| 248 | " | 2-18 | 10-0-0. |
| 249 | " | 0-29 | 2-4-0 |
| 247 | " | 1-3 | 3-8-0 |
| 250 | " | 0 36 | 4-0-0 |
| 257 | | 1-24 | 5-0-0 |
| 252 | | 5 0 | 10-8-0 |
| 253 | | 2 5 | 6-0-0 |
| 259 | | 2-31 | 7-8-0 |
| 260 | | 2-4 | 3-8-0 |
| 261 | | 1-13 | 4-0-0 |
| 274 | | 2-0 | 6-0-0 |
| 275 | | 2-14 | 7-0-0 |
| 276 | | 0-26 | 11-0-0 |
| 277 | | 2-30 | 9-0-0 |
| 278 | | 1-19 | 5-0-0 |
| 334 | | 0-26 | 3-0-0 |
| 337 | | 1-14 | 6-8-0 |
| 338 | Dry | 4 7 | 8-0-0 |
| 329 | do | 4-28 | 5-0-0 |
| | | 45-29 | 119-12-0 |

Virupasandra

| | | |
|---|---|---|
| 2 | Dry 4-13 | 50-0- |
| 3 | do 1-11 | 6-8-0 |
| 1 | garden 1-32 | 4-8-0 |
| 45 | Dry 7-13 | 7-8-0 |
| 109 | do 0 19 | 0-8-0 |
| | 19-8 | 24-0-0 |

thereupon requested to examine the tenants and also the documents presented by them in support of long possession and submit a report with his own views In pursuance of this order the Sub Division officer Closepet held an elaborate enquiry summoning the parties and after scrutiny of the Documents produced submitted a report with his No Mis Case 5 / 26 27 Dated 26 3 28 In June 1928 the Swamis of the matt presented an Application to the Deputy Commissioner bringing to notice that the tenants had, with a view to cause loss to the matt before they were evicted leased out the Co Cocanut tree for drawing toddy and prayed that this may be prohibited. A Stay order was issued the Excise Contractor and the tenants in their turn also applied to the Deputy Commissioner urging their own Cause and praying for the withdrawal of the Stay order The Deputy Commissioner after hearing both the parties allowed the tenants to exercise their right to give out the trees raised by them for tapping toddy in view of their being in possession of the lands for over 12 years and further stated that if the matt lost thereby it was open to it to obtain Compensation from the tenants

The stay order was withdrawn and the Contractor was allowed to tap the trees The present appeal is against this order The Swamigalu and the tenant were heard

Order No. $\frac{\text{DJ Drs. 66}}{29\ 30}$ Dated 14-9-29

It is a pity that the Deputy Commissioner's order in appeal does not deal with the important point as to when the alienations of the lands which are admittedly devadaya Inams took place and whether when the alienation have been made for what is now obviously a most unfair Consideration. we should not interfere on account of the duration of the leases or the mode of alienation by which the math has ceased to derive proper benefits from these lands and goes on a side issue as to the right to tap Coconut trees The Sub-Division office has no doubt held an elaborate enquiry and comes to the Conclusion that as the majority of the alienations have been prior to 1853 we cannot interfere where as in the case of

lands alienated subsequent to 1853 as the parties have spent large sums of money in improving the lands and raising Co-conut gardens the lands cannot be restored to the matt unless the Swamis pay reasonable compensation for these improvements

I am attaching herewith a statement giving full particulars of the lands the mode of alienation and the period for which the alienation has subsisted and the nature of benefit derived by the matt as compared with that derived by the alienees.

Excepting S. Nos 274 & 275 in the possession of Bandi Malleah S. No 277 in the holding of Honge Gowda and No 278 in the Possession of Malleri Rao The remaining S. Nos have all been leased out subsequent to 1853. Even with regard to the other lands referred to I do not think that though the mortgages were prior to 1853 we can consider that there was a permanent alienation so long as the transfer consisted merely of a mortgage

It is true that the matt Authorities principally the previous Swamis and his predecessor have

Contributed to the alienation and do not deserve personaley any Sympathy But by not interfering with the alienations it is the institution that Suffers

I have inspected the place with the matt and the lands and the present Swamie is doing his best to restore the prestege of the matt.

The Lands being on The Banks of Arkavati have been converted into Valuable Cocoanut gardens there would be great hardship in a Summary eviction of the parties Concerned but the present holders Should pay to the matt a reasonable rent in which case the land may be continued to them for a fairly long period say even 30 years. If is not possible for me to fix the rent in these individual Case the Case will be remanded back to the Deputy Commissioner with a request that irrespective of the rent now paid a proper rent should be fixed and in fixing the rent due Consideration Should be given to the improvements effected by the persons in possession. Be where the present value of the

land is primarily due to the endeavours of the holds the maximum rent need not be levied The present holders of the lands are fairly influential. Even the present nominal rate of rent have been withheld This attitude should not be encouraged They should be threatened with eviction if they do not come to a reasonable settlement.

At the same time it is not expedient to allow the Swamis to get the entire benefit due to the exercise of the extra-ordinary powers given under the Muzrai Regulation to deal with cases of alienation and utilise the amount for his personal use He should be told that these extra-ordinary powers will be enforced only if he is agreeable to have proper scale of expenditure fixed for the institution and to maintain proper accounts In case he does not submit to these conditions we should deal with these cases as unauthorized alienation

of Devadayam Inams and as the object for which the grants have been made has been defeated by the unauthorised acts of the Swamis Concerned the lands should be resumed and confirmed to the present holders on the principles adopted for the enfranchisement of Inams and the amount so realized should be held in deposit for such grant either to the math or other deserving institution

The case will be remanded to the Deputy Commissioner for disposal on the above lines. The final settlement of the case should be effected with in two months and a report made

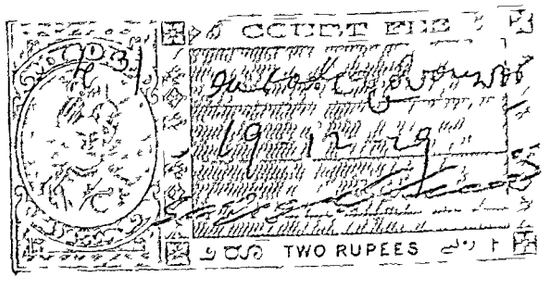
Sd) P G D'Souza
Regular Commissioner

Copy applied on 30-9-29
copy ready 7-10-29
copy delivered 8-10-29
No words 1326
Copying fees 1-12-0
Comparing fees 0-7-0
Compared by
Superintendent

// Copy //

Rathnavelu Mudaliar
for Munsif Court

OCT 8 1929




Before the Government of Mysore

# In the Chief Court of Mysore.

Misc. No. 488 OF 1927 – 1928.

| Appd | Resp |
|---|---|
| Bhandi Mallappa | Sri Nivvana Swami and others |

Vs.

I the Appd above named, do hereby nominate and appoint MR. A. R. NAGESVARA IYER, B.A., B.L., ADVOCATE, in the above suit and do hereby empower the said ADVOCATE to appear for and on my behalf in the above suit, to take all steps which may be necessary on my behalf arising out of or in connection with the above suit either during progress or after its decision, to sign and subscribe their names to any document which they may deem proper, to excute any decree that may be passed in my favour and to receive out of the Court any refund of money which may be lodged or become payable or receivable on my behalf and on receipt thereof to grant receipt or other sufficient discharges for the same, to withdraw, compromise or refer to arbitration the said suit, to appoint one or more substitutes and to act and perform all other matters and things relating thereto or connected therewith, to represent me in matters relating to the same and to act as fully and effectually to all intenst and purposes as I might do if personally present and did the same. And I do hereby agree to pay all fees, costs, charges and expenses which may be incurred and to allow, ratify, and confirm whatsoever the said ADVOCATE shall lawfully do or cause or procure to be done by the virtue of these presents.

In witness whereof I have hereunto set my hand this 19th day of Dec. 1928.

ACCEPTED

A. R. Nagesvara Iyer

B.A.

19-12-28

*Advocate for* Appd

*Signed before me by the executant who* *known to me*

Caxton Press, Bangalore City—1928

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Appendix F G—1

SUBJECT.....

.....

.....

Section Mwz

File No. 178 – 24

Serial No. 3

No. 1302/Enc –

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *192*

To

The M. C.

Date of issue 31-12-29

Signed by M. T. K. S. Iyer

Sir,

I am directed to forward for report with reference hereto, petitions nos. 968 986 from Kaiya, Bandi Mallaiyya and certain others appealing against your order so far as it relates to the direction that the present holders should pay a reasonable rent in respect of the inam lands in Kankanhalli kasba belonging to Desa Mata in Kankanhalli town over

List of enclosures.....

Copied by.....

27/12

Examined by.....

WD 063—GPB—20,000—1-8-29

M C. 13]

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

*Bangalore,* ....18th. March ..... .....*1930*.

No. 949/29-30.

FROM

*Rajakaryapravina*

P. G. D'SOUZA, ESQ., B.A., B.L.,

*Muzrai Commissioner in Mysore.*

To

Rajasevaparayana
B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
Financial Department.

SIR,

With reference to your letter No.1302 Muz.178-29-3 dated 27/31-12-1929 calling for report on the petitions Nos.968 and 986 from Eraiya, Pandi Mallaiya and certain others, appealing against this office order in App.No.6/28-29 so far as it relates to the direction that the present holders should pay a reasonable rent in respect of the Inam lands in Kankanhalli Kasba belonging to Degal Mutt in Kankanhalli Town, I have the honor to enclose herein the entire file of records received with the Bangalore District Deputy Commissioner's letter No.Muz.App.1/29-30 dated 5-3-30 and this office file No.$D_1$ Dis.66/29-30 and to state that the facts of the case are contained in this office order in $D_1$ Dis.66/29-30 dated 14-9-29 and in the Deputy Commissioner's letter with its enclosure dated 5-3-30 (herein enclosed).

The two petitions received with your letter under reply are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

A.A.M.

IN ALL FUTURE COMMUNICATIONS PLEASE QUOTE--
No [illegible]
ENC. [illegible]

OFFICE OF THE DEPUTY COMMISSIONER,
BANGALORE DISTRICT

*Dated, Bangalore, the* 5th March 1930.

TEL. ADDRESS-"DEPCOM"
POST BOX NO 34.

FROM

A K SYED TAJ PEERAN, ESQ, BA,
*Deputy Commissioner,*
*Bangalore District*

To

[illegible]

SIR,

~~SUBJECT:~~

With reference to your [illegible] dated 14th September 1929 [illegible] Inam lands enfeoffed to Degil[illegible] honor to state that in order to [illegible] alienated, I inspected the [illegible] the morning of the 20th January 1930. [illegible] the alienees were also present during the [illegible] statement showing the number of cocoanuts and other trees [illegible] survey No. is appended herewith. From this it may be seen that a major portion of the lands are fairly well covered with [illegible] two survey Nos. are left in a neglected condition for [illegible] alienees are entirely responsible.

2. In this connection, the Amildar of the Matt has submitted a list suggesting the lease amount to be fixed. The amount [illegible] appears to be excessive as apparently he has not taken into consideration the amount invested by the lessees nor [illegible] reasonable from the view point of the Matt to accept the rates under which the lessees allege that they are enjoying the lands of the Matt. The rates of land revenue prevalent for such [illegible] of lands in the vicinity of Inam lands now in dispute would be a minimum basis for consideration in this connection [illegible] for which other lands in such vicinity in the ordinary course of things have been leased out would represent the maximum. For the present purposes I have obtained from the Sub-Regr the latter point a statement showing the lease amounts [illegible]

in bonds presented before him. It may be seen therefrom that garden lands surrounding the Devadaya Inam lands have been leased out at a rate ranging from Rs.50/- to Rs.80/- per acre. Taking the figures as furnished by the Sub-Registrar and taking all other circumstances elicited during local local inspection into consideration, I consider the lease amount may be fixed at the rate of Rs.30/- per acre. Calculating at this rate, the amount of lease in respect of each survey No.will be as noted below:-

| S.No. | Extent. | Rent fixed. |
|---|---|---|
| 237 | 1-38 | 60/- |
| 246 | 2-14 | 70/- |
| 248 | 2-18 | 74/- |
| 249 | 0-29 | 22-8-0 |
| 250 | 1-11 | 37-8-0 |
| 251 | 2-0 | 60-0-0 |
| 252 | 5-0 | 150-0-0 |
| 253 | 2-6 | 66-0-0 |
| 259 | 2-9 | 70-0-0 |
| 260 | 2-4 | 63-0-0 |
| 261 | 1-13 | 40-0-0 |
| 274 | 2-3 | 62-8-0 |
| 275 | 2-22 | 70-0-0 |
| 276 | 0-35 | 27-8-0 |
| | 9-31 | This does not appear to have been alienated. |
| 277 | 2-3 | 62-0-0 |
| 278 | 1-31 | 52-8-0 |
| 334 | 0-29 | 22-8-0 |
| 337 | 1-21 | 45-0-0 |
| 7 of Virupasandra | 1-32 | 52-8-0 |
| | 46-29 | 1107-8-0 |

The amount noted above is not at all excessive when compared with the fertility of the land.

As regards the period of lease, I am not in favour of long lease of 30 years. I find from the records that the present -- alienees have purchased the lease in several cases recently knowing that they are Devadaya Inam lands. If the present occupants were really descendants of those in whose favour the previous Swamies alienated the lands prior to 1853, some concession could have been shown to them. In the absence of this circumstance the period of lease extending beyond 10 years would not be in the interests of the matt. In view of the fact that these persons have invested some amount for the improvement of the lands, it may cause hard-

ship

L.S.R.

35 big Cocoanut trees
6 tamarind trees
and 2 Jack trees
The remaining land
is being enjoyed by
Ande gowda and
his two brothers

Memo Chain
5/3/30

Deputy Commissioner
Bangalore District.

Log. 7 on

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | Gowda pays Rs 5/- to Kabbal Krishnappa in respect of this land the suit of Rs 20/- pending by Kabbal Krishnappa &c. |
| 17 | 252 part only | 276 | - do - | 3 | 10 | 6 | 8 | - | Eraiah | the matt in respect of S. Nos 246, ~~248~~ 249 and 249 is said to include ½ guntha of S. No. 237 also. The trees standing on the land are :- 35 big cocoanut trees 10 small cocoanut trees 18 mango trees 2 Jack trees 1 Tamarind tree |
| 18 | 277 | | - do - | 2 | 30 | 9 | - | - | Honge Gowda | Honge gowda says that he purchased the land for Rs 2750/- about 3 years ago. Number of trees standing on the land is as noted below :- 100 big cocoanut trees 70 small cocoanut trees 7 Jack trees. 1 Mango tree 1 Tamarind tree. |
| 19 | 70 of Kirupa-Bandra part only | | Garden | 1 | 32 | 4 | 8 | - | Anke Gowda - | It is ascertained that Anke Gowda has leased out half of this land to Bandi Mallaiah. Mercar |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 246 | 268 | Garden | 2 | 14 | 8 | - | - | Shivapuje Subbaiah | produce in addition to that for the last 14 years, he is giving 14 Rs. since, Re 1/- in cash and another has not paid anything during these two years. There no trees on the land. The land in possession of each kissedar is as noted below. (1) Subbaiah :- 65 cocoanut trees and 50 Arecanut trees (2) Kabbal Krishnappa 1-23 Cocoanut trees (3) Ramaiah :- 75 big and 75 young cocoanut trees 4 Jack trees and 1 mango tree. (4) Venkataramaiah - 60 cocoanut trees |
| 248 | 269 | - do - | 2 | 8 | 10 | - | - | | |
| 249 | 271 | do - | 0 | 29 | 2 | 4 | - | | |
| 16 | 237 | 267 | Garden | 1 | 28 | 5 | - | - | Guruker Venkata Ramanagowda. There are 17 big and 15 small cocoanut trees. He is not paying anything to the Mutt. It is ascertained that Venkataramanagowda pays Rs 5/- to Kabbal Krishnappa in respect of this land. The patta of Rs 20/- payable by Kabbal Krishnappa to |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | on the land. The says that he is paying Rs 15/- in cash as Gulta and that for the last one year he has not paid anything |
| 12 | 251 part only | - | - Do - | 0 | 20 | - | - | - | Kempakalliah | There are 15 big and 10 young Cocoanut trees - 3. Areecanut and 3 Jack trees. |
| 13 | 278 | 3.01 | Garden | 1 | 19 | .5 | - | - | Mallari Rao. | There are 25 big and 4 or 5 young Cocoanut trees and 6 Jack trees on the lands. The garden is not looked after properly. Half the produce is said to be given to the Mutt |
| 14 | 334 | 3.58. | - Do - | 0 | 26 | 3 | 0 | 0 | Chicka Maregowda. | There are 30 big and 15 Small Cocoanut trees 4 mango 2 Jack and 1 tamarind trees. The party says that he was paying half the |

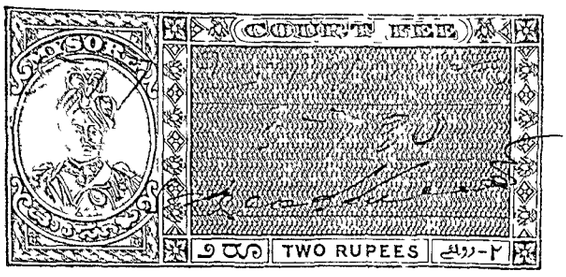
| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | Besides there are 20 mango trees and 8 Jack fruit trees |
| 275 | 300 | | do | 2 | 14 | 7 | - | - | Bandi Mallesh | In the Portion in Possession of Rangappa (Puttaranga) there are 14 old Cocoanut trees and 30 new plants |
| 276 part only. | 298 | | do - | - | 35 | - | - | - | Bandi Mallesh | 12 mango trees and 1 Tamarind tree are standing on the land Bandi Mallesh Says that he is paying Rs 2/- ~~Rs 8/-~~ to Cook. the Swamy of the mutt. |
| 252 + 251 parts only. | — | | do - | - | 22 | - | - | - | | More are 12 mango trees and 20 big and 10 - 12 young Cocoanut plants. Bandi Mallesh Says that he is paying Rs 14/- in Cash |
| 251 part only | — | | do - | - | 37 | - | - | - | Bandi Mallesh | — |
| 337 | - | | do - | 1 | 14 | 5 | 8 | - | Nanje Gowda of Budragupe. | 22 big and 20 Small Cocoanut trees and 1 Jack tree Are Standing |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | Value of the Mallu half is about Rs 25/- The Mallu is not getting pro of dry crops. |
| 3 | 253 | 279 | -00- | 2 | 6 | 6 | - | - | Thimmaraju alias Appajappa. (present Amuthan Govindaraju) | There are 436 Cocoanut trees 26 young trees |
| 4 | 261 | 291 | -00- | 1 | 13 | 4 | - | - | Malle-Gowda. | There are 20 old cocoanut trees 30 young plants. |
| 5 | 250 | 273. | -00- | 1 | 11 | 5 | 8 | - | Mallegowda. | In addition there are 8-10 mango trees. There are 100 Cocoanut and jack fruit trees 3 arecanut and 3 lime trees on the land. Mallegowda is paying Rs 5/- to the mallu: |
| 6 | 274 | 299 | -00- | 2 | - | 6 | - | - | Bandi Mallaiah | There are 100 old Cocoanut trees and 150 young plants. |

Statement Showing the Condition of the Inam lands endowed to the Degal Mutt at Kanakanhalli which have been alienated by the Mutt authorities.

| Serial Number. | Survey Number. | | Kind. | Extent. | | Assessment. | | | Name of the person who is in possession of the Land. | Condition of the land when the same was inspected by the Deputy Commissioner on 20-1-30. | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Old | New. | | Acres | Guntas | Rs. | As. | P | | | |
| 1 | 259 | 277 | Garden. | 2 | 31 | 7 | 8 | - | Kabbalu Krishnappa | About 2/3rd area is under dry cultivation the rest is planted with Cocoanut plants. There are 45 old trees. 160 plants were planted about 6 months ago Cocoanut produce Shared in half by | |
| 2 | 260 | 278 | Do. | 2 | 4 | 4 | - | - | — do — | | |

150 young plants




71

# In the Court of the Court of the Assistant Commissioner at Tumkur

Mun appeal CASE No. 27 OF 1929—1930

*Appellant, Plaintiff.* *Respondent, Defendant*

Eraiyya & others VS Sri Narasimhamurthy

1. .. ..I.... the .Respondent.... abovenamed do by these presents retain MR. B. VASUDEVAMURTHY, B A, LL B, *Advocate*, to appear in and conduct the above case on .. .. .my.. behalf to judgment.

2. .. .... ..I.. .. . further empower him to execute any decree or order that may be passed in .. .. .. ..my ..behalf and to receive from Court all documents, refunds and such sums of money as .. .. .. ...I .. .. ..may be entitled to get and grant receipts therefor.

3. .. .. .. . .I. .. .. . also undertake to confirm and ratify all the legal acts done by him in so doing.

ಶ್ರೀನಿವಾಸಮೂರ್ತಿ

BANGALORE
.. .. 4.15. July.. .. .. 1930.
7 7 30

*Accepted*

P Vasudevamurthy

*Advocate for* Respondent

*Signed before me and personally known to me*

S Narasimhamurthy

*Advocate.*

THE PHOENIX PRESS

OFFICE OF THE FIRST MEMORIAL
5 AUG. 1930
No M

GENL & FEV SECRETARIAT
6 AUG 1930
185
MUZRAI.

D
Jurd's
5/8/30

72

The other party may be asked if he proposes to prosecute the case (appeal) further. The case may be posted to 8-8-30

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE, BANGALORE.

Mizrai Appeal No. 9 of 1929-30.

Bandi Mallayya and others. ..Appellants

-Vs-
**

Degala Mutt Nirvana Swamigalu. .. .. Respondent

Respondent's memo.

The respondent begs to state as follows:-

1. The above appeal has not been settled out of court nor was it possible for any terms of settlement to be arrived at between the parties for being placed before this Hon'ble Court.

2. The respondent therefore prays that the matter may be disposed off according to Law.

B Varadaraja Murthy
Advocate for Respondent.

Respondent.

Bangalore,
Dated 5th Aug: 1930.

Appendix F G—1

73

SUBJECT .....

*Diary No. of letter replied to.....*

General and Revenue Secretariat

( )

*the* *193*

Date of issue ..... 7-8-30 .....

Signed by... Mr V. S. Sastry .....

Section Mnz.

File No. 198-29

Serial No.

No. 817

To C. Lakshmana Gowda Esqr

... B.A., B.L.

Advocate- Bangalore

Sir.

Mnz. Appeal 27 of 29 30

Eraiya, Honge Gowda and 9 others

Vs.

Begila mutt.

With reference to ~~the understandi~~ your representation ~~arrived at~~, at the time of hearing of the above appeal on 7-7-30 ~~& on 7-7-30 of Mnz. Appeal~~ that an attempt would be ~~No. 27 of 29 30~~, I am directed to enquire if no Compromise is possible as promised, at the time of hearing ~~and latest your claim how to state in the matter~~. ~~A very early~~ reply is requested before the 12th instant.

I have etc

V. S. [illegible]

for Asst. Secy

Made to settle the matter by Compromise

List of enclosures.....

Copied by.....

Examined by.....

Me favor of

WD 02327—GPB—5,000—16-4-30

G.S. Mnz 6/8

Appendix F G—1

SUBJECT..... 14

Section MuZ.

File No. 178-29

Serial No.

No. 2 98

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

To

A.R. Nageswara Iyer Esq.
B.A; B.L.
Advocate. Bangalore,

Date of issue 7-8-30

Signed by M.V.S. Sastry

Sir,

MuZ. Appeal No: 27 of 29-30
Bandi Mallayya Vs. Begum mutt.

With reference to ~~the under-standing~~, your representation ~~arrived at~~ at the time of hearing the above on 4.4.30 of MuZ. Appeal that an attempt will be made to Settle the matter by compromise ~~No 27 of 29-30~~, I am directed to enquire ~~whether~~ no compromise is possible, as promised at the time of hearing.

The favour of a ~~A very early~~ reply ~~is requested~~ before the 12th instant is requested.

I have etc.

G.8.30.
for Secy: to Govt
Mdu

List of enclosures.....

Copied by.....

Examined by.....

*over*

WD02327—GPB—5,000—15-4-30

C. L. GOUDA, B.A., B.L.,
ADVOCATE.

Bangalore City, 12-8-1930.

The Secretary to the Govt. of Mysore,

Financial Department,

Bangalore.

Ref: Yours No. 297 Muz. 178-29 d. 6/7-8-1930.

Sir,

Re the above I beg to state that the delay in arranging the matter is due to the fact that Mr. Gurikar Venkataramana Gouda the leader among my clients was taken seriously ill about 3 weeks ago and was an in-patient in the Victoria Hospital for 12 days and was discharged only a few days ago. I have already secured the consent of all the parties concerned to meet and make an effort to reach an equitable settlement. I therefore request that the re-posting of the case may be kindly put off till about a month more. It shall be my duty to report the result as soon as the parties arrive at a decision, within the month.

I am, Sir,

Yours very truly,

Chelvamma Gouda

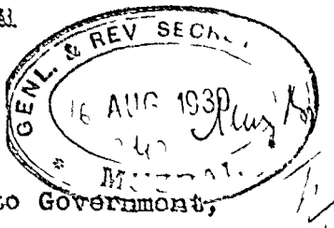
6/11/30

Nos. 6.

R. NAGESVARA IYER, B A B.L
ADVOCATE.
ಆರ್. ನಾಗೇಶ್ವರ ಐಯ್ಯರ್, ಬಿ.ಎ.,ಬಿ.ಎಲ್.,
ಅಡ್ವೋಕೇಟು,
ಚಿಕ್ಕಪೇಟೆ, ಬೆಂಗಳೂರು ಸಿಟಿ.

CHICKPET

Bangalore City 15th Aug 1930.




To

The Secretary to Government,

Financial Department, Bangalore.

Dear Sir,

Re: Muzrai appeal No. 27 of 29 - 30.

With reference to your letter No.298 M. 178 - 29, dated the 7th instant, I wrote to the party duly in the matter. I learn that no compromise has been effected so far.

I remain,
Your obedient servant,

R. Nageswara Iyer

1187

Misc 178 29-5 9/26/11/30

To

The Dy. Commr., Bangalore.

Sir,

In returning herewith the files of records relating to the alienation of Devadaya Inam lands endowed to Degila Mutt, Kankanhalli, for reference and retransmission, I am directed to enquire if the previous enquiry held in the matter was a formal enquiry as laid down in Sec. 37 of the Muz. Regn. No. VII of 1927 and if it was not, to request you to be so good as to hold personally a formal enquiry now as expeditiously as possible, cross examining the parties interested in the matter fully and submit through the Muz. Commr. a detailed and exhaustive report before the end of Dec. 1930 to facilitate the disposal of an appeal before Government on the subject.

I have &c.,

19.11.30

Law Secy. to Govt.

1188

Copy is forwarded to the Muz. Commr. with compliments with the files of his Office on the subject and with the request that the report required above may be got as quickly as possible from the Dy. Commr. and forwarded to this Office by the 1st week of January 1931.

By order,

19.11.30

Law Secy. to Govt.

Sri Nirvanaswami, Guru of Sri Degila Mutt.

1. Maaya.
2. Honge Gowda
3. Mallay Gowda
4. Govindaraju alias Appaji
5. Kone Gowda
6. Mkk M.S. Mallari Rao
7. Venkatanaranappa
8. A. Venkatappa
9. K. Venkataramaiya
10. Gurikar Venkataramana Gowda
11. Chikmari Gowda
12. Bandi Mallayya.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

*Dated, Bangalore,* 24th Nov. 1930

No. 1187 mis 178 29-5
records

*From*

*The Secretary to the Government of His Highness the Maharaja of Mysore,*
Financial *Law Department.*

*To*

The Deputy Commissioner,
Bangalore District, Bangalore.

Sir,

In returning herewith the file of records relating to the alienation of Devadaya Inam lands endowed to Degila Mutt, Kankanhalli, for reference and retransmission, I am directed to enquire if the previous enquiry held in the matter was a formal enquiry as laid down in Section 37 of the Muzrai Regulation No.VII of 1927 and if it was not, to request you to be so good as to hold personally a formal enquiry now as expeditiously as possible, cross examining the parties interested in the matter fully and submit through the Muzrai Commissioner a detailed and exhaustive report before the end of December 1930 to facilitate the disposal of an appeal before Government on the subject

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- A.N. Raghavachar,
Secretary to Government,
Financial Department.

Muzrai Appeal No. 27 of 1929-30.

Respondent.

Sri Nirvanaswami, Guru of Sri Degila Matt.

Appellants

1. Eraiya
2. Honge Gowda
3. Hallay Gowda
4. Govindaraju alias Appaji
5. Kone Gowda
6. H.S. Mallari Rao
7. Venkatanarayanappa
8. A. Venkatappa
9. K. Venkataramaiya
10. Gurikar Venkataramanagowda
11. Chikmari Gowda
12. Bandi Mallayya.

Memo No. 1188 dated, Bangalore, 24th Nov. 1930

Copy of the above is forwarded with compliments to the Muzrai Commissioner with the files of his Office on the subject and with the request that the report required above may be got as quickly as possible from the Deputy Commissioner and forwarded to this Office by the 1st week of January 1931.

By order,

for Secretary to Govern
Financial Departm

Mys 178-29-B.

M. C. 13]

No. C.870/30-34 dated 13 & 16 May 1932

GOVT. SECRETARIAT 1346 16 MAY 1932 MUZRAI.

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE.

Dated, Bangalore, 13-5- ..... 193 .

FROM

S. HIRIANNAIYA, ESQ., M.A., B.L.,
*Muzrai Commissioner in Mysore.*

TO

..... .....
*Secretary to the Government of His Highness*
*the Maharaja of Mysore.*
..... *Department.*

SIR,

[illegible]

[illegible]

81

5

7-1-1930,

k

8

equity

[illegible] ation. [illegible]

. . . [illegible]/- [illegible] i[illegible]

[illegible] [illegible].50/- [illegible] a[illegible]

[illegible] af [illegible] [illegible]ead[illegible] s.

11) [illegible] 

[illegible] 19[illegible]5 [illegible]

[illegible] ll ---

[illegible]arden as ess[illegible] cash grant

[illegible] regard[illegible] ls [illegible] after 31st January, 19[illegible]5, [illegible] av[illegible] [illegible]ed hands for valuable consideration, [illegible] la[illegible] [illegible] possession alone, [illegible] subject to [illegible] payment of one and a half [illegible] garden assesst prevailing [illegible] loca[illegible] [illegible] same grant [illegible] as a cash grant.

| Sl. No. | Name of person, S.No. & area. | When Alienated. | Alienation before 1803 | Alienation after 1803 | Doubtful cases. |
|---|---|---|---|---|---|
| | Eraiya S.No.252 Assessment 3.A. 10.G.Rs.6-8-0 | 1905. Lease by means of a registered deed for planting Coconut trees. | | After 1853. | |

IInd [illegible] Honnegowda.

| | | | |
|---|---|---|---|
| Honnegowda,<br>S.No.27 Assessmen<br>2.A.30.G.Rs.9-0-0 | | Honnegowda got the land in 1920 from Kempatale-gowda by means of a registered sale deed and Kempakalegowda's great grand father, Honnegowda got the land from Thi-vengadiah by means of a Registered sale deed on 20-5-1850. But when and how Thivengadiah or his forefathers got the land is not clear from records. | Before 1803 |

| Sl. No. | | | |
|---|---|---|---|
| 1. | Mallegowda.<br>S.No.261 Assessment<br>1 A. 13.G. Rs.4-0-0 | Appellant got the land by means of a registered sale deed in 1910 from Channappa. Channappa got it from Basamma by sale. Basamma's husband Appannappa got the land from Krishna Setty in 1896 by means of a Registered sale deed. Krishnasetty got the land from the Matt in 1876 for Khayam kandayam. | After 1353. |
| | S.No.250. Assessment<br>0.A. 37.G. Rs.4-0-0 | Got it in 1871 by means of a Sale deed(un-Regd) from Dasegowda. Dasegowda is stated to have got the land from the Matt in the year Krodhana i.e., in 1865 for Khayam Kandayam. | After 1353. |

| Sl. No. | Name of ... No. | ... | ... fall |
|---|---|---|---|
| 1. | Govindaraj alias Appajappa. S.No.253 Assessment. 2.A. 6.3. Rs.6-0-0 | Appellant got the land from Madar Sab in 1923 by means of a registered sale deed. Madar Sab got it from Patchabi by sale in 1910. Patchabi got the land as a gift from her mother Karimbi in 1897. How and when Karimbi got the land is not clear from records. | Doubtful as to whether the alienation is prior to or after 1953. |

Vth Kon[illegible]da.

55

| | | | |
|---|---|---|---|
| 1. [illegible] | | | |
| 0. | | | |
| Konegowda. S.No.[illegible] of Vimpasandra 1.A. 3[illegible].G. Assessment 4-8-0 | | Appellant's father Muddegowda got the land from the Mutt in 1883 on lease. In the lease deed of 1883 it is stated that the land was already in the possession of Muddegowda but it is not clear when and how the land actually passed into the hands of Muddegowda. | Doubtful as to when the land actually came into the possession of the appellant. |

| | | | |
|---|---|---|---|
| M.S.Mallay Rao.<br>S.No.278.<br>Ak. 1.a. 19.g. | Assessment<br>Rs.5-0-0. | Appellant's great grand father got the land in 1899 on mortgage from Th Pinalagiri Dasa Setty and how Dasa-setty got is not clear from records. He calls the land as his ancestral pro-perty. | Before 1353 |

VIIth

| | | | | |
|---|---|---|---|---|
| Venkatanarayanappa. S.Nos.259 and 260 .Asst. | | | Appellant's grand father Ramappa got the land from the Swami of the Matt in 1850. (Kalayukthi) for permanent lease. | After 1 ... |
| 259 | 2.A. | 31.3. 7-8-0 | | |
| 260 | 2.A. | 4.3. 4-0-0 | | |

th Appellant.

| Sl. No. | Name of person & No. & area. | When alienated. | Alienation before 1803 | Alienation after 1853 | Doubtfull cases. |
|---|---|---|---|---|---|
| | Nanjegowda. S.No. Area. 337. 1. 14 | Asst. 5-8-0 | Appellant says that the land is in the enjoyment of the family from the days of his forefathers. No document to show his title to the land except long possession. | | Doubtful as to when the land was alienated by the Mitt authorities. |

qu

9th Appellant.

53

| Sl. No. | Name of [illegible] | [illegible] | [illegible] | [illegible] |
|---|---|---|---|---|
| | | | | |

Venkataramaih.

| S.No. | Area. | Asst. | | |
|---|---|---|---|---|
| 246 | 2. 14. | 8/- | Sivapuje Subbiah uncle of the appellant states before the Sub Division Officer on 20-12-27, that the lands in question were in the enjoyment of his family from the time of his forefathers and adds that he does not know how and when the lands came into enjoyment of his family. But later on Venkataramaiah(Appt) produces copies of certain documents one of which is an unregistered sale deed by Chindagirigowda and Venkategowda in favour of Chikka-Venkataiah, stated to be the great grand father of the appellant and has also produced another copy of a lease deed stated to have been executed in 1846, by the then Swami of the Matt in favour of one Naranappa. | Before 1853 |
| 248 | 2 18 | 10/- | | |
| 249 | 0 29 | 2-4-0 | | |
| | 5 21 | | | |

10th Appellant.

31

S. [illegible]
No.

Gurukhar Venkataramana-gowda.

| S.No. | Area. | Assessment. | | |
|---|---|---|---|---|
| 237 | 1. 28. | 5/- | This S.No. along with S.Nos.246,248 & 249 were leased permanently ~~to~~ Naranappa in the year Plavanga(1846) by the then Swami of the Matt. It changed several hands by sale and ultimately in 1910 came into the possession and enjoyment of the appellant by a Registered Sale deed. | Before 1853. |

12th Appellant.

96

1.Bandi Mallaih.

| S.No. | Area. | Assessment. | | |
|---|---|---|---|---|
| 274 | 2. 0. | Rs.6-0-0 | The appellant got the land by sale in 1909 by means of a Registered sale deed from Rama setty descendant of Pamanagaih, who got the land in exchange for some other land from one Mariyappa on 17-7-1829. How and when Mariyappa got these lands is not borne out from records or copies of documents produced by the Appellant. | Before 1853. |
| 275 | 1.22. | 4-0-0 | | |

2.276 0. 35. Got on lease from the Swami of the Matt on 15-8-1910 lease deed not registered. After 1853

| 3. S.No. | Area. | | | |
|---|---|---|---|---|
| 252 | 0 | 22 | Appellant got the land in 1912 by means of a Registered sale deed from Imam Sab and Gousekhan for Rs.340/- Imam Sab got the land in 1894 from one Sanjivasetty by means of sale and Sanjivasetty had obtained possession of the land from one Veerabhadrasetty and Mahantappa by sale in 1873. When and how Veera bhadra Setty got the land is not clear from records or copies of documents produced by the Appellant. | Doubtful as to whether the alienation is before or after 1853. |
| 251 | 1 | 12 | | |

| 4.S.No. | Area. | | | |
|---|---|---|---|---|
| 251 | 0. | 37. | Appellant got the land by sale from one Basamma wife of Byle Basappa. Byle Basappa got the land by sale from one Kapinaiah in 1903. But how Kapinaiah got the land cannot be found out either from the records or from the copies of documents produced by the parties. | Doubtful as to whether the alienation is prior to or after 1853. |

| | | |
|---|---|---|
| Chikmarigowda.<br>S.No.334 O.A.26.G. | The appellant says that the land is in the possession and enjoyment of the family for the past 70 or 80 years. He says he has no documents to show how he got the land. | It is a doubtful case as to when and how the lands came into the possession and enjoyment of the appellant or his family. |

(A.)

Remark.

---o

—o

—o

—o for every 9 Cocoanut tree

—o

—o

—→

S. Kelu
Deputy Commissioner
Bangalore

)endix F G—1]

BJECT .....

.....

... .. ... ... ... ..... ..... ..... ..... ..... ... ..... ..... .....

Section Mec 3

File No. 178-29

Serial No. 7

*Diary No. of letter replied to* .....1346.....

No 8/Inam

To

M.C

Alienations Q

General and Revenue Secretariat

( )

*the* *193* .

Subject:— Re: Deva daya a Inam lands endowed to Sri Deepa Mata - Kankanhalli

Sir,

Date of issue .....2.7.32.....

Signed by Dr. B. Jand Deputy Secretary

I am to refer to your letter No. C 870/30-31 of 13.5.32 forwarding a detailed report of the D.C. Bangalore on the above subject, I am directed to state that Inam Office records on the subject are not found among the records received with your letter under acknowledgement & to request you will kindly

List of enclosures .....

Copied by .....

Examined by .....

(A)

Mr. Howard Mersman
au cas d'une

Marche

25/6/32

pour le Belgique

Anvers

G.V.
24/6

Appendix F G—1]

100

SUBJECT .....

.....

.....

Section Inam

File No. 178-29

Serial No. 8

*Diary No. of letter replied to* 1346

No. 9/Inam

To

The Supdt. Rent Survey & Settlement.

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 2.7.32

Signed by [illegible]

Sir,

I am directed to request you will be so good as to forward for reference copies of Inam Settlement Registers of all the Devadaya Inam lands endowed to Sri Deguladevi in Kankanadi T.K. ~~the old Survey No~~ the old S. No and the ~~corresponding~~ new S. Nos may kindly be noted in each case—

Inam Etc

2876

For the Register

List of enclosures .....

TYPING SECTION
25 JUN 1932
GENL. & REV. SECTT.

Copied by .....

Examined by .....

WD 71—GRPM—40,000—20-31

GV 26/6.

Mug 178-29-9

[M C. 13]

No. 870/30 31
12-Cc

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE

*Dated, Bangalore,* 7th July *193* 2.

FROM S. P. RAJAGOPALACHARI, ESQ., P.A., P.L.,
*Muzrai Commissioner in Mysore*

To

S. Shamanna, Esq., B.A.,....
*Secretary to the Government of His Highness*
*the Maharaja of Mysore*
....Financial *Department.*

CENL & REV. SECRETARIAT
64
12 JUL 1932
MUZ

SIR,

Subject:- Re: alienation of Devadaya Inam lands endowed to Sri Degila Mutt, Kankanhalli.

With reference to your letter No.8/Muz. dated 27th June '32 on the above subject, I have the honor to forward herewith this office records connected with the subject.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Mog 178-29-10

OFFICE OF THE SUPERINTENDENT,
MYSORE REVENUE SURVEY,

No. 17/ 32-33
6 copies

*Dated Bangalore,...11th...July.....* 1932.

FROM, S.P. Rajagopalachari, Esq., B. ., B.L.,
~~SRINIVASA IYENGAR, Esq., B.A.~~
*Superintendent, Revenue Survey and*
*Settlements in Mysore.*

1517

To
C. Shamanna, Esq., B. .,
Financial Secretary to the Government of
H. H. the Maharaja of Mysore.
B a n g a l o r e .

GENL. & REV. SECRETARIAT.
16 JUL. 1932
91
MUZRAI.

SIR,

As desired in your letter No.9 dated 27-6-32, I have the honor to forward herewith copies of Inam Registers - pertaining to the grant of lands to Degila Mutt at Kanzan-halli.

I have the honor to be,
Sir,
Your most obedient servant,

R. Srinivasa
11/7/32
For Superintendent.

BKS.

# GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

## General and Revenue Secretariat

*Dated, Bangalore,* 28th April 1933.

*No* 1532 — 2 — 5.

*From* Muz 178-29

The *Financial Secretary to the Government of His Highness the Maharaja of Mysore.*

*To*

The Muzrai Commissioner
in Mysore, Bangalore.

Sir,

In continuation of this Office Memorandum No. 1429/ Muz 178-29 dated 14th April 1933 forwarding copy of - decision in Muz Appl 27 of 1929-30 regarding permanent tenancy rights in respect of Devadaya utt lands claimed by Bandi Mallaiya and others of Kankanhalli, I am directed to observe that it is necessary to consider whether - - Devadaya grants of this nature can be continued at all in view of the altered conditions and that it would -- appear from the Inam Register pertaining to Devadaya grant Kankannalli Taluk that the grant is intended for "showing hospitality to travellers" and that if this is the only object of the grant, the Institution is really a Chattram and not a Mutt.

As

(A)

As grants to chattrams have been abolished I am to request that the necessity to continue similar grants to so called Matts may be examined and a detailed report submitted in the matter.

I have the honor to be,

Sir,

Your most obedient servant,

for Financial Secretary to Govt.

ndix F G—1]

JECT ..... 184

.. .....

.....

D. No 91 Kandeshwar

Section Mucz

File No. 178-29

Serial No.

No. of letter replied to ..... ... .....

No. 1532

To

eneral and Revenue Secretariat

( )

the 193 .

issue 2-5-33

y Muddukrishnappa.

The M C

Sir,

In continuation of this Office memo no 1429/Muz 178-29 dy 11.4.33 forwarding Cdjr decision in Muz Appl 27 of 1929-30 re: permanent tenancy rights in respect of Devasthana lands claimed by Bantu Mallaiya & others of Kankanhalli, I am directed to observe that it is necessary to consider whether Devadaya grants of this nature can be continued at all in view

List of enclosures.....

Copied by.....

Examined by.....

(A. 107

of the altered Conditions, & that
it would appear from the Inam
Register pertaining to the Devadaya-
grants -- Kaulmankalia TK
that the grant is in lieu of
for showing hospitality
to travellers" & that it
this is the only object of the grant,
the Institution is nearly
a Chattram and not a mutt;
As grants of Chattrams
have been abolished, I am -
to request that the necessity
to continue similar grants
to so called mutts may
be examined & a detailed
report submitted in the matter
I have Etc
8/27/4/33
For H Sec

Gr 2 Jan
2 bill

Survey No. | Extent | Assessment | Survey No. | Extent | Assessment | Name of the persons

237 | 1-28 | 5-00 | 267 | 1-38 | 6-00 | Sunkal Venkatalakshmamma & Govt.
246 | 2-14 | 8-00 | 268 | 2-14 | 11-00 | Bharaje Bhavanna & 3 others
248 | 2-18 | 10-00 | 269 | 2-18 | 11-00 | do
249 | 0-29 | 2-40 | 271 | 0-29 | 2-40 | do
250 | 0-36 | 4-00 | 273 | 1-11 | 5-80 | Malleyonda
251 | 1-24 | 5-00 | 274 | 2-00 | 6-00 | Bandi Mallaih
252 | 5-00 | 10-00 | 276 | 5-00 | 10-00 | do
253 | 2-6 | 6-00 | 279 | 2-6 | 6-00 | Goundargari
259 | 2-31 | 7-80 | 277 | 2-9 | 7-80 | Kabbal Krishnappa
260 | 2-4 | 3-80 | 278 | 2-4 | 4-00 | do
261 | 1-13 | 4-00 | 291 | 1-13 | 4-00 | Malleyonda
274 | 2-0 | 6-00 | 299 | 2-3 | 8-80 | Bandi Mallaih
275 | 2-14 | 7-00 | 300 | 2-22 | 7-80 | do
275 | 10-26 | 11-00 | 298 | 7 31 0-35 guntas | 13-00 | Bandi Mallaih
277 | 2-30 | 9-00 | 299 | 2-3 | 8-80 | Honnegowda
278 | 1-19 | 5-00 | 301 | 1-31 | 6-00 | Mallan Rao
334 | 0-26 | 3-00 | 358 | 0-29 | 3-80 | Chikkamalle Gowda
337 | 1-14 | 5-80 | 361 | 1-21 | 6-00 | Nanjegowda & Bandegowda
7 | 1-32 | 4-80 | 7 | Kempa Gowda | | Ankegowda

106

BEFORE THE GOVERNMENT OF H.H. THE

THE MAHARAJA OF MYSORE.

PRESIDENT.

Huzrat Appeal No. 27 of 1929-30.

Appellants:-

(1) Vaqpmi M, [illegible],

(2) [illegible] Krishna of Tarakeri.

Vs.

Respondent:-

Sri Nirvanaswami of Sri Gavisiddheshwara Matt, Kanakanhalli.

Subject - Appeal against the order of the Mysore Commissioner in Appeal No. [illegible] of 1928-29 confirming the order of the Court directing that the lease of the [illegible] Matt, Kankanhalli, be granted to the appellants for a fixed long period if they agree to pay, as the, a reasonable rent to be fixed.

---

The dispute is about the Devasthana lands of the Sri Gavisiddha Matt, Kankanhalli. The appellants state that they hold leases in respect of these lands, but contend that they should be considered as permanent lessees. It has been ascertained that they have been paying to the Matt, according to the terms of the leases, the Kaipal due to it in the form of either produce or its value. The Kaipal paid to a land-lord is, from its nature, a fluctuating amount and it is the annual rent payable by a tenant-at-will. The permanent lease of a land should be viewed as its alienation and the Head of a Matt has no authority to alienate a land endowed to it and any alienation by him, unless it is made with the previous sanction of Government, should be considered as null and void. It is not stated that there is the sanction of Government in support of the

the permanent leases claimed by the appellants. In their representation, the appellants suggest that a reasonable rent might be taken from them by the Mutt, but that the lands might be allowed to be in their possession as a permanent measure. According to this arrangement proposed by the appellants themselves, the rent payable by them has to be altered as the conditions affecting it vary from time to time. The procedure suggested is the same as that followed in the case of tenants-at-will. In view of the inalienable nature of Devadaya lands and of the fact that the Head of a Mutt is not competent to create any interest in respect of the property of his Mutt to endure beyond his life, the relation between the appellants and the Mutt has throughout been that between tenants-at-will and land-lord and there can be no adverse possession by the former against the latter. The appellants represent that they have incurred considerable expenditure in converting the dry into garden lands and that it would not be fair to deprive them of the lands altogether. Some consideration might be shown to them for having improved the income yielding character of the lands, but it should not be overlooked that they have kept the bulk of the benefit to themselves themselves and that for very long periods - and have not allowed the Mutt to share in it. The most equitable disposal of the case would be to allow the appellants to have, in the first instance, fairly long leases of these lands on gutta amounts which can be considered fair in view of all the factors to be taken into account and this is what the Inferior Commissioner has directed in his order dated the 14th September 1929. There are, in these circumstances, no reasons to interfere with this order and the appeal is dismissed.

Memo. 1430. Encls 7 files.
Mug 178-29-11 § 11-4-33

Copy of the above is forwarded, with compliments, to the Muzrai Commissioner in Mysore, returning records received with his letter No. 949/20-30 dated the 19th March 1930.

By order,

For Secretary to Government,
Financial Department

Memo. 1431 § 11-4-33

Copy of the above is forwarded to Mr. C. T. Kotrana Gowda, B.A., B.L., Advocate for the appellants grouped (1)

By order,

For Secretary to Government.
Financial Department.

Memo. 1430(a) § 11-4-33

Copy of the above is forwarded to Mr. A.R. Nageswara, B.A., B.L., Advocate for the appellant grouped (2).

By order,

For Secretary to Government,
Financial Department

Memo. 1432 § 11-4-33.

Copy of the above is forwarded to Mr. B. Vasudeva Rao, B.A., B.L., for the respondent.

By order

For Financial Secretary

Rev. 21]

# Before the Government of His Highness the Maharaja of Mysore.

MUZRAI Appeal No. 27 of 1929-30.

Appellants

(1) Yeeraiya, Honge Gowda, and others.

(2) Bandi Mallaiya of Kankanhalli.

*Vs.*

Respondent

Sri Nirvana Swami of Sri Degila Mutt, Kankanhalli.

Subject.

Appeal against the orders of the Muzrai Commissioner in Appeal No. 6 of 1928-29 on the file of his Court directing that the leases of the lands of the Sri Degila Mutt, Kankanhalli, be continued to the present lessees for a fairly long period if they are agreeable to pay a reasonable rent to the Mutt.

The dispute is about the Devadaya Inam lands of the Sri Degila Mutt, Kankanhalli. The appellants state that they hold leases in respect of these lands, but contend that they should be considered as permanent lessees. It has been ascertained that they have been paying to the Mutt, according to the terms of the leases, the Rajapal due to it in the form of either produce or its value. The Rajapal paid to a land-lord

WD 0533—GPB—750—21-7-27

110

is, from its nature, a fluctuating amount and it is the annual kutta payable by a tenant-at-will. The permanent lease of a land should be viewed as its alienation and the Head of a Kutt has no authority to alienate a land endowed to it and any alienation by him, unless it is made with the previous sanction of Government, should be considered as null and void. It is not stated that there is the sanction of Government in support of the permanent leases claimed by the appellants. In their representation, the appellants suggest that a reasonable rent might be taken from them by the Kutt, but that the lands might be allowed to be in their possession as a permanent measure. According to this arrangement proposed by the appellants themselves, the rent payable by them has to be altered as the conditions affecting it vary from time to time. The procedure suggested is the same as that followed in the case of tenants-at-will. In view of the inalienable nature of ~~the~~ Devadaya lands and of the fact that the Head of a Kutt is not competent to create any interests in respect of the property of his Kutt to enure beyond his life, the relation between the appellants and the Kutt has throughout been that between tenants-at-will and land-lord and there can be no adverse possession by the former against the latter. The appellants represent that they have incurred consider-

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considerable expenditure in converting the dry into garden lands and that it would not be fair to deprive them of the lands altogether. Some consideration might be shown to them for having improved the income yielding character of the lands, but it should not be overlooked that they have kept the bulk of the benefit to themselves - and that for very long periods - and have not allowed the Lutt to share in it. The most equitable disposal of the case would be to allow the appellants to have, in the first instance, fairly long leases of these lands on gutta amounts which can be considered fair in view of all the factors to be taken into account and this is what the Muzrai Commissioner has directed in his order dated 14th September 1929. There are, in these circumstances, no reasons to interfere with this order and the appeal is dismissed.

14 29 /Moz 175-29-11 Encls 7 files 9 11-4-33.

Copy to the Muzrai Commissioner returning records received with his letter No. 949/29-30 dated 19th March 1930.

B.O.

5/4/33
for Finl. Secy.

Copy to Mr. C. Lakshmana Gowda, B.A., BL., Advocate for the appellants rouped (1)

B.O.

5/4
for

Copy to Mr. A.K.Nageswara Iyer, B.A., B.L., Advocate for the appellant grouped (2).

B.O.

5/5/4
for Finl. Secy.

Copy to Mr. B.Vasudeva Rao, B.A.,B.L., Advocate for the respondent.

B.O.

5/5/4
for Finl. Secy.

No. ..... .....

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE
MUZRAI

113 Dated, Bangalore, ... 193

FROM

S. HIRIANNAIYÁ, Esq., M.A., B.L.,
*Muzrai Commissioner in Mysore*

No. 8 30/10

To

*Secretary to the Government of His Highness*
*the Maharaja of Mysore*
*Department.*

SIR,

granted

I have the honour to be,
Sir,
Your most obedient servant.

S. Hiriannaiya
For Muzrai Commissioner.
Absent from HQ quarters